

CHAPTER 1

Legal Divisions of the Oceans and Airspace

1.1 INTRODUCTION

The oceans of the world traditionally have been classified under the broad headings of internal waters, territorial seas, and high seas. Airspace has been divided into national and international airspace.¹ In recent years, new concepts have evolved, such as the exclusive economic zone and archipelagic waters, that have dramatically expanded the jurisdictional claims of coastal and island nations over wide expanses of the oceans previously regarded as high seas. The phenomenon of expanding maritime jurisdiction and the rush to extend the territorial sea to 12 nautical miles and beyond were the subject of international negotiation from 1973 through 1982 in the course of the Third United Nations Conference on the Law of the Sea. That Conference produced the 1982 United Nations Convention on the Law of the Sea (1982 LOS Convention).²

In 1983, the United States announced that it would neither sign nor ratify the 1982 LOS Convention due to fundamental flaws in its deep seabed mining provisions. Although the Convention, by its terms, would not come into formal effect until one year following deposit with the United Nations of the 60th instrument of ratification, the United States

¹ Space, or outer space, begins at the undefined upward limit of national or international airspace and extends to infinity. That undefined point of demarcation between airspace and outer space is generally regarded as occurring at that yet to be determined point where the atmosphere is incapable of sustaining aerodynamic flight and where artificial satellites cannot be sustained in orbit. Christol, *The Modern International Law of Outer Space* 522-33 (1982); Fawcett, *Outer Space: New Challenges to Law and Policy* 16-17 (1984).

² The 1982 United Nations Convention on the Law of the Sea, opened for signature 10 December 1982, U.N. Doc. A/CONF. 62/122 (1982), is *reprinted* in the Navy supplement to AFP 110-20 and in 21 Int'l Leg. Mat'ls 1261 (1982).

Each country has its own preference for maximizing the benefits of its relationships with the sea. Those without a strong maritime history tend to see their interests more exclusively as coastal nations than inclusively with the international community favoring maritime navigation and overflight. Alexander, 8. The interests of the United States reflect that apparent dichotomy: as a coastal nation the United States seeks to exploit its fisheries resources and offshore oil deposits; as a maritime power the United States is dependent on unencumbered navigation and overflight routes throughout the world and in outer space. Negroponte, *Who Will Protect Freedom of the Seas?*, Dep't St. Bull., Oct. 1986, at 42. However, an approach reflecting the inclusive interests of the international community actually benefits all nations, since the fundamental importance of the oceans lies in the equal and reasonable access to them for all nations. Harlow, *Book Review*, 18 J. Mar. L. & Comm. 150-51 (1987).

An understanding of the historical development of the law of the sea is necessary to appreciate the evolutionary nature of international law generally and the importance the actions and inactions of governments, including their navies, have in establishing and losing rights.

considered that the provisions relating to navigation and overflight codified existing law and practice and reflected customary international law.³

On November 16, 1994, the 1982 LOS Convention came into force, with respect to those nations that are parties to it.⁴ The concerns of the United States and other industrialized nations with respect to the deep seabed mining provisions of the Convention were successfully resolved by an Agreement adopted without dissent by the United Nations General Assembly on July 28, 1994.⁵ That Agreement contains legally binding changes to the 1982 LOS Convention and is to be applied and interpreted together with the Convention as a single treaty.⁶ On October 7, 1994, the President of the United States submitted the 1982 LOS Convention and the Agreement reforming its deep seabed mining provisions to the Senate for its advice and consent to accession and ratification, respectively.⁷

1.2 RECOGNITION OF COASTAL NATION CLAIMS

In a statement on U.S. oceans policy issued 10 March 1983, the President stated:

First, the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans [in the 1982 LOS Convention] -- such as navigation and overflight. In this respect, the United States will recognize the rights of other States in the waters off their coasts, as reflected in the Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal States.

Second, the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent

³ See Statement by the President, Mar. 10, 1983, Annex A1-3 (p. 1-38).

⁴ See Table A1-1 (p. 1-71) for a listing of nations that have ratified or acceded to the 1982 LOS Convention as of 1 November 1997. See Annex A1-1 (p. 1-25) for the views of the United States as to the rights and duties of non-parties to the Convention as articulated in its 8 March 1983 Statement in Right of Reply, 17 LOS Official Records 243. Figure A1-1 (p. 1-69) illustrates the several regimes. International navigation and overflight and conduct by coastal nations in those areas are discussed in Chapter 2. The United States is a party to the Territorial Sea Convention, the Continental Shelf Convention, the High Seas Convention and the Fisheries Convention. See Table A1-2 (p. 1-74) for a listing of nations that are parties to these four 1958 Geneva Conventions.

⁵ U.N. General Assembly Resolution A/RES/48/263 of 17 Aug 1994 and accompanying Annex "Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982," *reprinted in* Nordquist, Vol. 1 at 471-91.

⁶ *Id.*, Agreement Art. 2 at 474.

⁷ Letter of Transmittal, Oct. 7, 1994, Senate Treaty Doc. 103-39, (*see* Annex A1-2 (p. 1-29)). For an excellent overview of the 1982 LOS Convention *see* Doran, An Operational Commander's Perspective of the 1982 LOS Convention, *Int'l J. of Marine & Coastal L.*, Vol. 10, No. 3 (August 1995) at 335-47. On the national security aspects of the Convention *see* Department of Defense White Paper, National Security and the Law of the Sea, 2nd ed., January 1996.

with the balance of interests reflected in the Convention. The United States will not, however, acquiesce in unilateral acts of other States designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses.⁸

The legal classifications ("regimes") of ocean and airspace areas directly affect naval operations by determining the degree of control that a coastal nation may exercise over the conduct of foreign merchant ships, warships, and aircraft operating within these areas. The methods for measuring maritime jurisdictional claims, and the extent of coastal nation control exercised in those areas, are set forth in the succeeding paragraphs of this chapter.⁹ The DOD Maritime Claims Reference Manual (DoD 2005.1-M) contains a listing of the ocean claims of coastal nations.¹⁰

1.3 MARITIME BASELINES

The territorial sea and all other maritime zones are measured from baselines. In order to calculate the seaward reach of claimed maritime zones, it is first necessary to comprehend how baselines are drawn.¹¹

⁸ See Annex A1-3 (p. 1-38) for the full text of this statement. United States practice has been to recognize those provisions of maritime claims that are consistent with the 1982 LOS Convention and to diplomatically protest and assert its rights against those aspects that are inconsistent with internationally recognized rights and freedoms. For example, the United States will recognize a 12 nautical mile territorial sea claim, but not a restriction on warship innocent passage in those waters.

⁹ See also Figure A1-1 (p. 1-69).

¹⁰ The MCRM provides a description of the nature of the various claims and includes a system of charts depicting the baselines and seaward reach of the claimed areas of national jurisdiction. These claims also appear in certain issues of Notice to Mariners (*e.g.*, 1/97), U.S. Dep't State, Limits in the Seas No. 36, National Claims to Maritime Jurisdictions (7th rev. 1995), and U.S. Dep't State, Limits in the Seas No. 112, United States Responses to Excessive National Maritime Claims (1992). Publication of these lists does not constitute U.S. recognition or acceptance of the validity of any claim. The list of United States claims is reproduced in Annex A1-4 (p. 1-40). For a comprehensive analysis of excessive maritime claims, see Roach & Smith.

¹¹ The current rules for delimiting baselines are contained in articles 5 through 14 of the 1982 LOS Convention. They distinguish between "normal" baselines (following the sinuosities of the coast) and "straight" baselines (which can be employed along certain irregular coasts). As noted by the I.C.J., delimitation of straight baselines "cannot be dependent merely upon the will of the coastal State as expressed in its municipal law. . . . [T]he validity of the delimitation with regard to other States depends upon international law." *The Anglo-Norwegian Fisheries Case*, [1951] I.C.J. Rep. 132. The baseline rules take into account most of the wide variety of physical conditions existing along the coastlines of the world. Alexander, at 13-14. The MCRM lists the baseline claims of the coastal nations. National legislation on baselines is compiled in U.N. Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Baselines: National Legislation With Illustrative Maps*, U.N. Sales No. E.89.V.10 (1989). The baseline provisions of the 1982 LOS Convention are examined in U.N. Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Baselines*, U.N. Sales No. E.88.V.5* (1989). See also *Atlas of the Straight Baselines* (T. Scovazzi *et al.* eds., 2d ed. 1989) and Roach & Smith, at 41-91.

The discussion of maritime zones in the text of this chapter assumes that the adjacent land area is within the undisputed sovereignty of the claimant nation. However, the legal title to some mainland and island territories is in dispute, thus
(continued...)

1.3.1 Low-Water Line. Unless other special rules apply, the baseline from which maritime claims of a nation are measured is the low-water line along the coast as marked on the nation's official large-scale charts.¹²

¹¹(...continued)

affecting the offshore zones; for example: Essequibo region of western Guyana claimed by Venezuela; Western Sahara presently occupied by Morocco, but claimed by the Polisario supported by Algeria and Mauritania; the southern Kuriles, claimed by Japan and occupied by the U.S.S.R. (now Russia) since the end of World War II; various of the Spratly Islands claimed by China, Vietnam, Malaysia, the Philippines, Taiwan and Brunei; the Senkakus Islands disputed among China, Japan, and Taiwan; Liancourt Rock (or Takeshima) disputed between Japan and the Republic of Korea; Mayotte Island in the Indian Ocean disputed between France and Comoros; British Indian Ocean Territory (including Diego Garcia) where the United Kingdom's ownership is disputed by Mauritius; some small islands in the Mozambique Channel between Mozambique and Madagascar disputed between Madagascar and France; Persian Gulf islands of Abu Musa, Tunb al Sughra, and Tunb al Khabra disputed between Iran and the United Arab Emirates; Kubbar, Qaruh, and Umm al Maraden Islands disputed between Kuwait and Saudi Arabia; Hawar Islands disputed between Bahrain and Qatar; Falklands/Malvinas dispute between the United Kingdom and Argentina; and the two uninhabited islands of Hunter and Matthew, to the east of New Caledonia, disputed between France and Vanuatu.

Further, although there are close to 400 maritime boundaries, less than a quarter of them have been definitely resolved by agreement between the adjacent or opposing neighbors. Alexander, 41-44. Most of these agreements are collected in U.N. Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: Maritime Boundary Agreements (1970-1984)*, U.N. Sales No. E.87.V.12 (1987); maritime boundary agreements concluded prior to 1970 are listed in an annex to this collection. See also U.S. Dep't State, *Limits in the Seas* No. 108, *Maritime Boundaries of the World*, (rev. 1990) and *International Maritime Boundaries* (Charney & Alexander eds., 1993 (2 Vols.)). The Antarctic is discussed in paragraph 2.4.5.2.

U.S. maritime boundaries have been established with the *Soviet Union* (now *Russia*), Sen. Treaty Doc. 101-22 and Sen. Ex. Rep. 102-13, to which the Senate gave its advice and consent on 16 Sep. 1991; *Canada* in the Gulf of Maine, (see 1984 I.C.J. Rep. 345-46 and 23 Int'l Leg. Mats. 1247); *Mexico*, T.I.A.S. 8805 (see Dep't State, *Limits in the Seas* No. 45), *Cuba* (see Dep't State, *Limits in the Seas* No. 110); *Venezuela*, T.I.A.S. 9890 (see Dep't State, *Limits in the Seas* No. 91); and the *Cook Islands and Tokelau*, T.I.A.S. 10775 (see Dep't State, *Limits in the Seas* No. 100). The boundary with Cuba is established by executive agreement, pending advice and consent of the Senate to the treaties establishing these boundaries. Sen. Ex. H, 96th Cong. 1st Sess., T.I.A.S. 9732, 32 U.S.T. 840; T.I.A.S. 10,327; T.I.A.S. 10,913; T.I.A.S. 11,853 (Cuba). See also Feldman & Colson, *The Maritime Boundaries of The United States*, 75 Am. J. Int'l L. 729 (1981); Smith, *The Maritime Boundaries of The United States*, 71 Geographical Rev., Oct. 1981, at 395; and *Maritime Boundary: Cuba-United States*, *Limits in the Seas* No. 110 (1990). The United States has outstanding maritime boundary issues with Canada, including areas in the Beaufort Sea, Dixon Entrance, and Strait of Juan de Fuca. The U.S.-Canada dispute regarding the extension of the Gulf of Maine boundary was resolved in the *Gulf of Maine Case*, 1984 I.C.J. Regs. 347. See I *International Maritime Boundaries* (Charney, & Alexander eds., 1993 at 401-16. Negotiations continue to resolve the U.S.-Dominican Republic maritime boundary. Negroponte, *Current Developments in U.S. Oceans Policy*, Dep't St. Bull., Sep. 1986, at 86. The United States has established a provisional enforcement boundary between it and the Bahamas.

There has been considerable litigation between the United States and several States of the United States concerning the application of these rules. *United States v. California*, 332 U.S. 19, 67 S.Ct. 1658, 91 L.Ed. 1889 (1947); *United States v. California*, 381 U.S. 139, 85 S.Ct. 1401, 14 L.Ed.2d 296 (1965); *United States v. Louisiana*, 394 U.S. 11, 89 S.Ct. 773, 22 L.Ed.2d 44 (1969); *United States v. Alaska*, 422 U.S. 184, 95 S.Ct. 2240, 45 L.Ed.2d 109 (1975), on remand 519 F.2d 1376 (9th Cir. 1975); *United States v. California*, 432 U.S. 40, 97 S.Ct. 2915, 53 L.Ed.2d 94 (1977), modified 449 U.S. 408, 101 S.Ct. 912, 66 L.Ed.2d 619 (1981).

¹² Territorial Sea Convention, art. 3; 1982 LOS Convention, art. 5. "Low-water line" has been defined as "the intersection of the plane of low water with the shore. The line along a coast, or beach, to which the sea recedes at low-water." The actual water level taken as low-water for charting purposes is known as the level of Chart Datum. LOS Glossary, definition 50, Annex A1-5 (p. 1-44). Since 1980, the United States has used a uniform, continuous Chart Datum of Mean Lower Low (continued...)

1.3.2 Straight Baselines. Where the coastline is deeply indented or where there is a fringe of islands along the coast in its immediate vicinity, the coastal nation may employ straight baselines. The general rule is that straight baselines must not depart from the general direction of the coast, and the sea areas they enclose must be closely linked to the land domain.¹³ A coastal nation which uses straight baselines must either clearly indicate them on its charts or publish a list of geographical coordinates of the points joining them

¹²(...continued)

Water for all tidal waters of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, United States Virgin Islands, Commonwealth of Northern Mariana Islands, and its other territories and possessions. 45 Fed. Reg. 70296-97, 23 Oct. 1980; Hicks, Tide and Current Glossary 3 & 15 (NOAA 1989).

Normal baselines must be consistent with the rule set forth in the text. Excessive "normal" baseline claims include a claim that low-tide elevations wherever situated generate a territorial sea and that artificial islands generate a territorial sea (Egypt and Saudi Arabia). Churchill & Lowe, *The Law of the Sea* 46 (2d ed. 1988). On low-tide elevations, *see* 1.3.2.2; on artificial islands, *see* 1.4.2.2.

¹³ Territorial Sea Convention, art. 4; 1982 LOS Convention, art. 7.

Norway is an example of a country whose coastline is deeply indented and fringed with islands; in 1935 it was the first country to establish a baseline consisting of a series of straight lines between extended land points. In its decision, the International Court of Justice approved the system. *The Anglo-Norwegian Fisheries Case*, [1951] I.C.J. Rep. 116; MacChesney 65. The criteria laid down in the decision for delimiting straight baselines independent of the low-water line were copied almost verbatim in the 1958 Territorial Sea Convention, and continued, with some additional provisions, in the 1982 LOS Convention. *See* U.S. Dep't of State, Limits in the Seas No. 106, Developing Standard Guidelines for Evaluating Straight Baselines (1987).

Properly drawn straight baselines do not significantly push the seaward limits of the territorial sea away from the coast. Straight baselines are not authorized for the purpose of territorial sea expansion, which seizes property interests from other States in coastal adjacency or opposition, and from all other States of the world who share a common interest in the high seas and deep seabed. In viewing the 1982 LOS Convention as a whole, the U.S. position is that straight baseline segments must not exceed 24 NM in length. *See* note 15.

If the portion of the coast being examined does not meet either criterion (deeply indented or fringed with islands), then no straight baseline segment may lawfully be drawn in that locality, and the subordinate rules (on permissible basepoints, vector of the putative straight baseline in relation to the coast, and the requisite quality of the waters that would be enclosed), may not be invoked. Further, the coastal State must fulfill all the requirements of one test or the other, and may not mix the requirements. For example, a State may not claim that a locality is indented, though not deeply, and that it has some islands, though they do not constitute a fringe, and claim it may draw straight baselines in that locality. Either test selected must be met entirely on its own terms. If neither test is met, then the low-water mark must be used in that locality. However, failure to meet this preliminary geographical test in one locality does not preclude establishing it in another.

together.¹⁴ See Figure 1-1. The United States, with few exceptions, does not employ this practice and interprets restrictively its use by others.¹⁵

1.3.2.1 Unstable Coastlines. Where the coastline is highly unstable due to natural conditions, e.g., deltas, straight baselines may be established connecting appropriate points on the low-water line. These straight baselines remain effective, despite subsequent regression or accretion of the coastline, until changed by the coastal nation.¹⁶

1.3.2.2 Low-Tide Elevations. A low-tide elevation is a naturally formed land area surrounded by water and which remains above water at low tide but is submerged at high tide. As a rule, straight baselines may not be drawn to or from a low-tide elevation unless

¹⁴ Territorial Sea Convention, art. 4(6); 1982 LOS Convention, art. 16.

¹⁵ Letters from Sec'y State to Dep't Justice, 13 Nov. 1951 and 12 Feb. 1952, *quoted in* 1 Shalowitz, *Shore and Sea Boundaries* 354-57 (1962) and 4 Whiteman 174-79. Straight baselines must be constructed strictly in accordance with international law to avoid unilateral attempts to diminish the navigational rights of all States. A concise description of the U.S. position on the use of straight baselines may be found in the Commentary in the Transmittal Message at pp. 8-10 (*see note 7*).

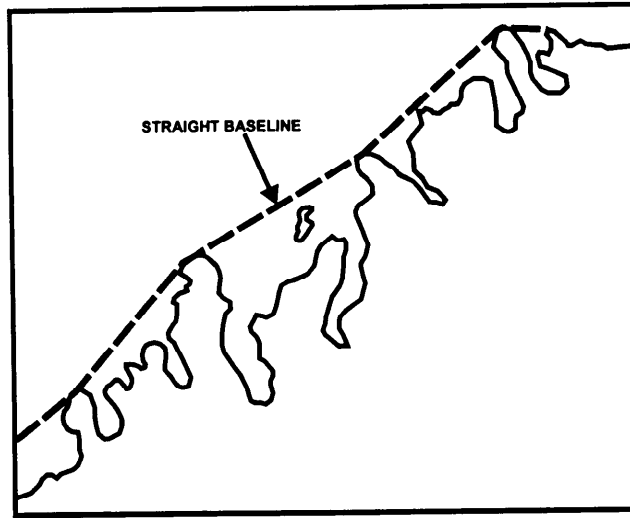
Several parts of the U.S. coast (*e.g.*, Maine and southeast Alaska) have the physical characteristics that would qualify for the use of straight baselines. Alexander, at 19. The U.S. Supreme Court has held that straight baselines could be applied in the United States only with the federal government's approval. *United States v. California*, 381 U.S. 139, 167-69, 85 S.Ct. 1401, 14 L.Ed.2d 296, 314-15 (1965); *Louisiana Boundary Case*, 394 U.S. 11, 36-38, 89 S.Ct. 773, 787-89, 22 L.Ed.2d 44 (1969); and *Alabama and Mississippi Boundary Case*, 470 U.S. 93, 99, 105 S.Ct. 1074, 84 L.Ed.2d 73, 79 (1985).

Seventy-five nations have delimited straight baselines along all or a part of their coasts. *See* Table A1-3 (p. 1-77). No maximum length of straight baselines is set forth in the 1982 LOS Convention. The longest line used by the Norwegians in 1935 was the 44-mile line across Lofthavet. Much longer lines have since been drawn, not in conformity with the law, such as Ecuador (136 nautical miles), Madagascar (123 nautical miles), Iceland (92 nautical miles), and Haiti (89 nautical miles). Alexander, *Baseline Delimitations and Maritime Boundaries*, 23 Va. J. Int'l L. 503, 518 (1983). Vietnam's baseline system departs to a considerable extent from the general direction of its coast. Alexander, *id.*, at 520. Other straight baselines that do not conform to the 1982 LOS Convention's provisions include Albania, Canada, Colombia, Cuba, Italy, Senegal, Spain, and the former-U.S.S.R. Alexander, at 37; U.S. Dep't of State, *Limits in the Seas* No. 103 (1985); and MCRM. Among the straight baselines that depart most radically from the criteria of the 1982 LOS Convention are the Arctic straight baselines drawn by Canada and the former-U.S.S.R. *See* Roach & Smith at 57-8.

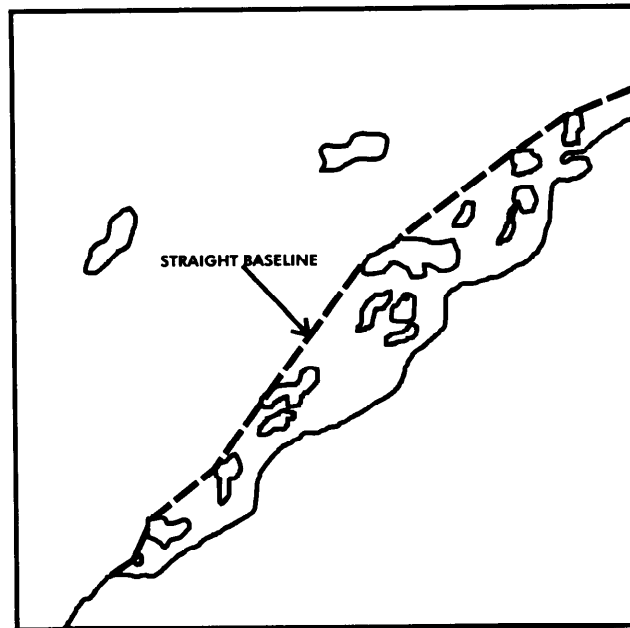
Some of the Soviet straight baseline claims are analyzed in U.S. Dep't of State, *Limits in the Seas* No. 107 (1987) (Pacific Ocean, Sea of Japan, Sea of Okhotsk, Bering Sea) and No. 109 (1988) (Black Sea). The USS ARKANSAS (CGN-41) challenged the Soviet straight baseline drawn across Avacha Bay, the entrance to Petropavlovsk, Kamchatka Peninsula, on 17 and 21 May 1987. *Washington Post*, 22 May 1987, at A34; 39 *Current Dig. Soviet Press*, 24 June 1987, at 18; U.S. Naval Inst. Proc. Naval Review, May 1988, at 231.

¹⁶ 1982 LOS Convention, art. 7(2). States making use of the delta provision must first meet the threshold test of art. 7(1) of the LOS Convention which permits the drawing of straight baselines by joining appropriate points along the coast in localities where the coastline is deeply indented and cut into or where a fringe of island exists along the coast. Applicable deltas include those of the Mississippi and Nile Rivers, and the Ganges-Brahmaputra River in Bangladesh. Alexander, at 81 n.10.

FIGURE 1-1 STRAIGHT BASELINES



A. DEEPLY INDENTED COASTLINE



B. FRINGING ISLANDS

a lighthouse or similar installation, which is permanently above sea level, has been erected thereon.¹⁷

1.3.3 Bays and Gulfs. There is a complex formula for determining the baseline closing the mouth of a legal bay or gulf.¹⁸ For baseline purposes, a "bay" is a well-marked indentation in the coastline of such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. The water area of a "bay" must be greater than that of a semicircle whose diameter is the length of the line drawn across the mouth.¹⁹ See Figure 1-2. Where the indentation has more than one mouth due to the presence of islands, the diameter of the test semicircle is the sum of the lines across the various mouths.²⁰ See Figure 1-3.

The baseline across the mouth of a bay may not exceed 24 nautical miles in length. Where the mouth is wider than 24 nautical miles, a baseline of 24 nautical miles may be drawn within the bay so as to enclose the maximum water area. See Figure 1-4. Where

¹⁷ Territorial Sea Convention, arts. 11 & 4(3); 1982 LOS Convention, arts. 13 & 7(4). Low-tide elevation is a legal term for what are generally described as drying banks or rocks. On charts they should be distinguishable from islands. International Hydrographic Organization (IHO) definition 49, Annex A1-5 (p. 1-44). The LOS Convention would also permit the use of low-tide elevations without lighthouses as basepoints for straight baselines if the usage "has received general international recognition." LOS Convention, art. 7(4). No low-tide elevation may be used as a basepoint for establishing straight baselines if it is located wholly outside the territorial sea measured from normal baselines. Where a low-tide elevation is situated at a distance not exceeding the breadth of the territorial sea measured from the mainland or an island, the low-tide elevation may also be used as the normal baseline. See Figure 1-5 (p. 1-16).

¹⁸ Many bodies of waters called "bays" in the geographical sense are not "bays" for purposes of international law. See Westerman, *The Juridical Bay* (1987).

¹⁹ Territorial Sea Convention, art. 7(2); 1982 LOS Convention, art. 10(2). Islands landward of the line are treated as part of the water area for satisfaction of the semicircle test. Territorial Sea Convention, art. 7(3); 1982 LOS Convention, art. 10(3).

²⁰ Territorial Sea Convention, art. 7(3); 1982 LOS Convention, art. 10(3).

Figure 1-2. The Semicircle Test

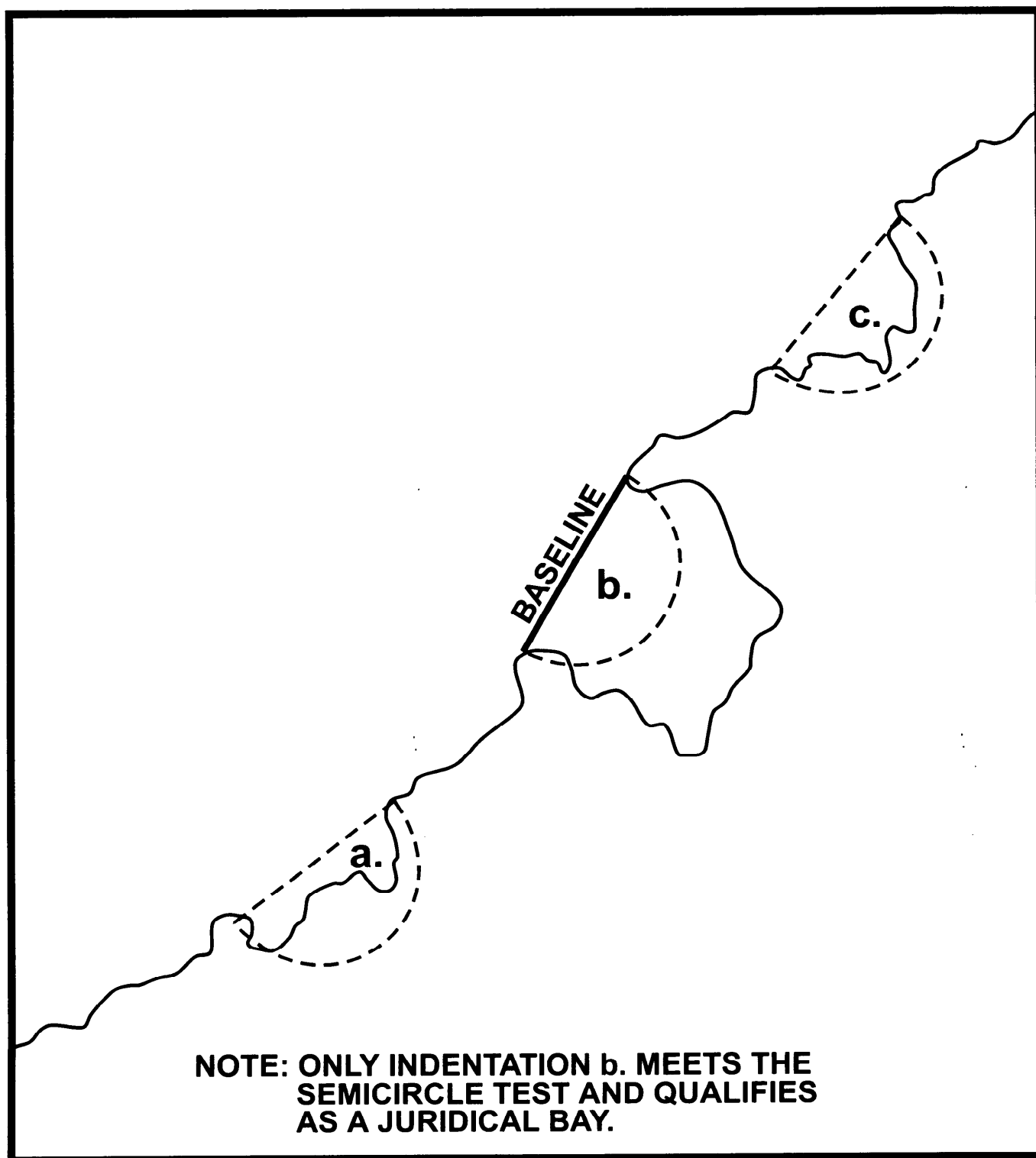


Figure 1-3. Bay with Islands

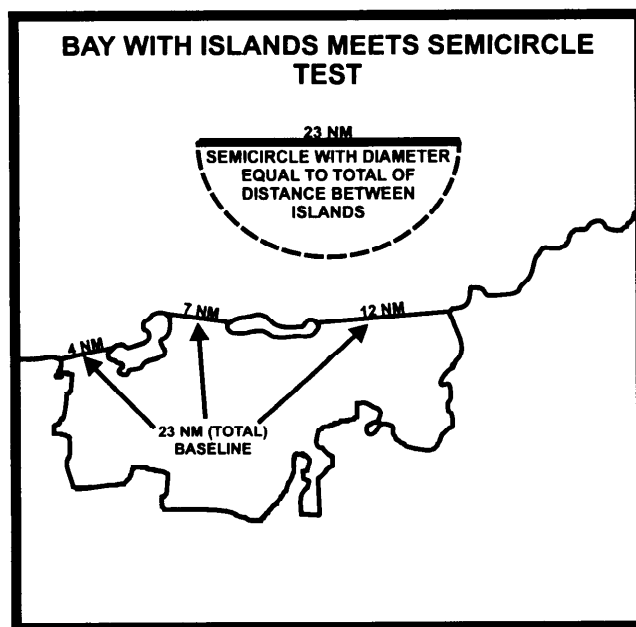
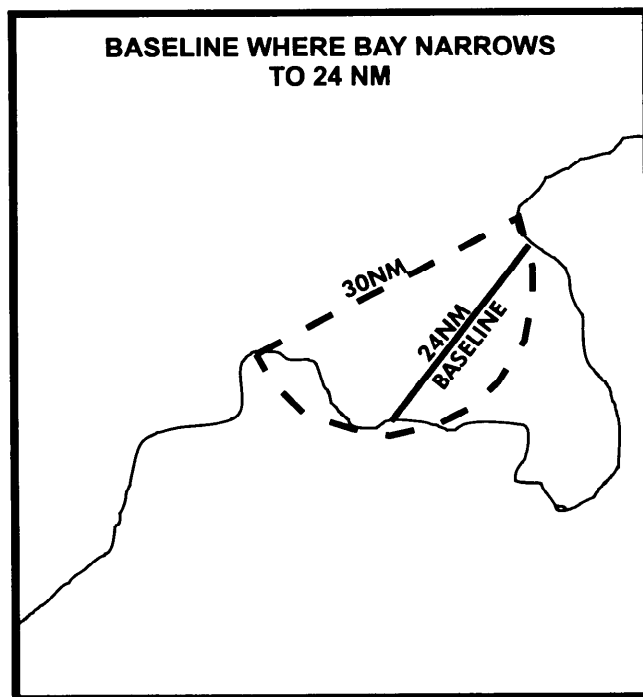


Figure 1-4. Bay with Mouth Exceeding 24 Nautical Miles



the semicircle test has been met, and a closure line of 24 nautical miles or less may be drawn, the body of water is a "bay" in the legal sense.²¹

1.3.3.1 Historic Bays. So-called historic bays are not determined by the semicircle and 24-nautical mile closure line rules described above.²² To meet the international standard for establishing a claim to a historic bay, a nation must demonstrate its open, effective, long term, and continuous exercise of authority over the bay, coupled with acquiescence by foreign nations in the exercise of that authority. The United States has taken the position that an actual showing of acquiescence by foreign nations in such a claim is required, as opposed to a mere absence of opposition.²³

²¹ The waters enclosed thereby are internal waters. Territorial Sea Convention, art. 7(4)-(5); 1982 LOS Convention, art. 10(4)-(5).

If an indentation with a mouth wider than 24 nautical miles meets the semicircle test, it qualifies as a juridical bay. The waters landward of the 24 nautical mile "closure line" in such a bay need not meet the semicircle test. *See* Figure 1-4 (p. 1-10). Territorial Sea Convention, arts. 7(2) & (5); 1982 LOS Convention, arts. 10(2) & (5); Westerman, *The Juridical Bay* 170-76 (criticizing the contrary view in I Shalowitz, *Shore and Sea Boundaries* 223 (1962)). This "closure line" is described as a straight baseline in article 10(5) of the 1982 LOS Convention.

Closure lines for bays meeting the semicircle test must be given due publicity, either by chart indications or by listed geographic coordinates. Where the semicircle test is not met in the first instance, the coastal water area is not a "bay" in the legal sense, but a mere curvature of the coast. In this case, the territorial sea baseline must follow the low water line of the coastline, unless the coastal configuration justifies use of straight baselines (*see* paragraph 1.3.2) or the waters meet the criteria for an "historic bay" (*see* paragraph 1.3.3.1). Territorial Sea Convention, arts. 3 & 7(6); 1982 LOS Convention, arts. 16 & 10(6). The 1984 Soviet straight baseline decree along the Arctic coast specifically closed off at their mouths 8 bays wider than 24 nautical miles. Alexander, at 36. The unique Soviet claims of *closed seas* are discussed in paragraph 2.4.4, note 68 (2-23) and Alexander, at 67-69.

The U.S. Supreme Court has held that Long Island and Block Island Sounds west of the line between Montauk Point, L.I., and Watch Hill Point, R.I., constitute a juridical bay. *United States v. Maine et al. (Rhode Island and New York Boundary Case)*, 469 U.S. 504 (1985).

²² Territorial Sea Convention, art. 7(6); 1982 LOS Convention, art. 10(6).

²³ 1973 Digest of U.S. Practice in International Law 244-45 (1974); Goldie, *Historic Bays in International Law--An Impressionistic Overview*, 11 Syracuse J. Int'l L. & Comm. 205, 221-23, 248 & 259 (1984). Cf. *United States v. Alaska*, 422 U.S. 184, 200 (1975) (absence of foreign protest does not constitute acquiescence absent showing foreign nations knew or reasonably should have known that territorial sovereignty was being asserted); *but see Fisheries Case (U.K. v. Norway)*, 1951 I.C.J. Rep. 116, 138 & 139 (mere toleration is sufficient). See also Juridical Regime of Historic Waters, Including Historic Bays, U.N. Doc. A/CN.4/143, 9 March 1962, in 2 Y.B. Int'l L. Comm. 1 (1964).

The United States "has only very few small spots of historic waters, which are of no consequence to the international community and which could have been incorporated in a straight baseline system had it chosen to do so." Negroponte, *Who Will Protect Freedom of the Seas?*, Dep't St. Bull., Oct. 1986, at 42-43. Mississippi Sound, a shallow body of water immediately south of the mainland of Alabama and Mississippi, has been held by the U.S. Supreme Court to be an historic bay, *United States v. Louisiana et al. (Alabama and Mississippi Boundary Case)*, 470 U.S. 93 (1985), as has Long Island Sound, *United States v. Maine et al.*, 469 U.S. 509 (1985). The United States has held that certain other bodies of United States waters do not meet the criteria for historic waters. These include Cook Inlet, Alaska, (*United States v. Alaska*, 422 U.S. 184 (held to be high seas)); Santa Monica and San Pedro Bays, California (*United States v. California*, 381 U.S., at 173-75 (1965)); Florida Bay (*United States v. Florida*, 420 U.S. 531, 533 (1975)); numerous bays along the coast of Louisiana (continued...)

1.3.4 River Mouths. If a river flows directly into the sea, the baseline is a straight line across the mouth of the river between points on the low-water line of its banks.²⁴

²³(...continued)

(*Louisiana Boundary Case*, 420 U.S. 529 (1975)); and Nantucket Sound, Massachusetts (*Massachusetts Boundary Case*, 475 U.S. 86 (1986)). The Supreme Court has also noted that no exceptions have been taken to the Master's finding that Block Island Sound was not a historic bay. *United States v. Maine et al.*, 469 U.S. 509 n.5. The Supreme Court also adopted the recommendations of its Special Masters in the Florida and Louisiana cases. Their Reports, containing the primary analyses of these waters, were not generally available until their publication in Reed, Koester and Briscoe, *The Reports of the Special Masters of the United States Supreme Court in the Submerged Lands Cases, 1949-1987* (1992). In 1965, the U.S. Supreme Court declined to consider the claim that Monterey Bay, California, is historic, noting that it met the 24-nautical mile closing line test. *United States v. California*, 381 U.S., at 173. On the other hand, while the Chesapeake and Delaware Bays meet the criteria for historic bays, and have been so recognized by other nations (2 Restatement (Third), sec. 511 Reporters' Note 5, at 32), both now qualify as juridical bays and do not depend upon historic bay status for treatment as internal waters.

Table A1-4 (p. 1-80) lists claimed and potential historic bays, none of which are recognized by the United States. The status of some of these bays, and others, are discussed in 4 Whiteman 233-57, Churchill & Lowe, *The Law of the Sea* 36-38 (2d rev. ed. 1988); and Roach & Smith, at 23-40.

Hudson Bay, with a 50-mile closing line, is not conceded by the United States to be a historic bay, despite Canada's claim since 1906. Colombos, *International Law of the Sea* 186 (6th ed. 1967); Bishop, *International Law* 605 (3d ed. 1971); 1 Hackworth 700-01; 4 Whiteman 236-37.

The claim of Libya to historic status for the Gulf of Sidra (Sirte), with a closure line of about 300 miles, first advanced in 1973, has not been accepted by the international community and has been the subject of frequent protests and assertions (*see* paragraph 2.6 (p. 2-32)). 1974 Digest of U.S. Practice in International Law 293; U.N. Law of the Sea Bulletin No. 6, Oct. 1985, at 40 (U.S. protests). Many other nations also reject Libya's claim to the Gulf of Sidra, including Australia (Hayden press conference in Brisbane, 26 March 1986), France (FBIS Western Europe, 26 March 1986, at K1); Federal Republic of Germany (FBIS Western Europe 26 March 1986, at J1); Norway (FBIS Western Europe 7 April 1986, at P3-P4); and Spain (FBIS Western Europe, 26 March 1986, at N1). Only Syria, Sudan, Burkina Faso (formerly Upper Volta), and Romania have publicly recognized the claim. U.N. Doc. S/PV.2670, at 12 (1986) (Syria); Foreign Broadcast Information Service (FBIS) Daily Report, Middle East & Africa, 27 Mar. 1986, at Q5 (Sudan); *id.*, 13 Dec. 1985, at T1 (Burkina Faso); FBIS Daily Report, Eastern Europe, 27 Mar. 1986, at H1 (Romania). The Libyan claim is carefully examined in Spinatto, *Historic and Vital Bays: An Analysis of Libya's Claim to the Gulf of Sidra*, 13 Ocean Dev. & Int'l L.J. 65 (1983); Francioni, *The Status of The Gulf of Sirte in International Law*, 11 Syracuse J. Int'l L. & Comm. 311 (1984); Blum, *The Gulf of Sidra Incident*, 80 Am. J. Int'l L. 668 (1986); Neutze, *The Gulf of Sidra Incident: A Legal Perspective*, U.S. Naval Inst. Proc., January 1982, at 26-31; and Parks, *Crossing the Line*, U.S. Naval Inst. Proc., November 1986, at 41-43.

The U.S., Japan, Great Britain, France, Canada, and Sweden have protested the Soviet Union's 1957 claim that Peter the Great Bay (102 nautical miles) is a historic bay. 4 Whiteman 250-57; 2 Japanese Ann. of Int'l L. 213-18 (1958); Darby, *The Soviet Doctrine of the Closed Sea*, 23 San Diego L. Rev. 685, 696 (1986). The operations of USS LOCKWOOD (FF-1064) on 3 May 1982 and USS OLDENDORF (DD-972) on 4 September 1987 challenged the Soviet historic bay and straight baseline claims in Peter the Great Bay. *See* Roach & Smith at 31.

Several countries have protested Vietnam's claims to portions of the Gulfs of Tonkin and Thailand as its historic waters. Protests of the claim in the Gulf of Thailand may be found in U.N. Law of the Sea Bulletin No. 10, Nov. 1987, at 23 (U.S.); U.N. LOS Office, *Current Developments in State Practice* 147 (Thailand); U.N. LOS Office, *Current Developments in State Practice* No. II 84-85 (Singapore); and of the claim in the Gulf of Tonkin in U.N. LOS Office, *Current Developments in State Practice* 146-47 (France and Thailand). *See also* Limits in the Seas No. 99, *Straight Baselines Vietnam* 9-10 (1983) and Roach & Smith at 33.

²⁴ Territorial Sea Convention, art. 13; 1982 LOS Convention, art. 9. The Conventions place no limit on the length of this line. Since estuaries and bays are necessarily much wider than mouths of rivers, a straight baseline across the mouth of a river should not be longer than the maximum permitted for bays. This rule does not apply to estuaries. (An estuary is the (continued...))

1.3.5 Reefs. The low-water line of a reef may be used as the baseline for islands situated on atolls or having fringing reefs.²⁵

1.3.6 Harbor Works. The outermost permanent harbor works which form an integral part of the harbor system are regarded as forming part of the coast for baseline purposes. Harbor works are structures, such as jetties, breakwaters and groins, erected along the coast at inlets or rivers for protective purposes or for enclosing sea areas adjacent to the coast to provide anchorage and shelter.²⁶

²⁴(...continued)

tidal mouth of a river, where the tide meets the current of fresh water. IHO definition 30, Annex A1-5 (p. 1-44). The baseline adopted for a river mouth must be given due publicity either by chart indication or by listed geographical coordinates. Territorial Sea Convention, art. 3; 1982 LOS Convention, art. 16.

If the river forms an estuary, the rule for bays should be followed in closing the river's mouth. IHO definition 54, Annex A1-5 (p. 1-44). Further, the Conventions do not state exactly where, along the banks of estuaries, the closing points should be placed. Some nations have sought to close off large estuaries at their seaward extent. For example, Venezuela has closed off the mouth of the Orinoco with a 99-mile closing line, although the principal mouth of the river is 22 miles landward from that baseline. Limits in the Seas No. 21. That claim was protested by the United States and the United Kingdom in 1956. 4 Whiteman 343; Roach & Smith at 74.

No special baseline rules have been established for rivers entering the sea through deltas, such as the Mississippi, (*i.e.*, either the normal or straight baseline principles may apply) or for river entrances dotted with islands.

²⁵ 1982 LOS Convention, art. 6. A reef is "a mass of rock or coral which either reaches close to the sea surface or is exposed at low tide." A fringing reef is "a reef attached directly to the shore or continental land mass, or located in their immediate vicinity." IHO definition 66, Annex A1-5 (p. 1-44). An atoll is "a ring-shaped reef with or without an island situated on it surrounded by the open sea, that encloses or nearly encloses a lagoon." IHO definition 9, Annex A1-5 (p. 1-44). While the LOS Convention does not state how a closing line is to be drawn across the opening of an atoll, waters inside the lagoon of an atoll are internal waters. *See* paragraph 1.4.1 (p. 1-14) and Beazley, *Reefs and the 1982 Convention on the Law of the Sea*, 6 Int'l J. Estuarine & Coastal L. 281 (1991). In warm water areas, where atolls and reefs are prevalent, navigators may thus have difficulty in precisely determining the outer limits of a nation's territorial sea. Alexander, at 14.

²⁶ Territorial Sea Convention, art. 8; 1982 LOS Convention, art. 11. Other harbor works include moles, quays and other port facilities, as well as coastal terminals, wharves and sea walls built along the coast at inlets or rivers for protective purposes or for enclosing sea areas adjacent to the coast to provide anchorage and shelter. IHO definition 38, Annex A1-5 (p. 1-44).

Offshore installations and artificial islands are not considered permanent harbor works for baseline purposes. Notwithstanding suggestions that there are uncertainties relating to monobuoys (single point mooring systems for tankers), which may be located some distance offshore, Alexander, at 17, the U.S. Government rejects the use of monobuoys as valid base points. The U.S. Supreme Court has held that "dredged channels leading to ports and harbors" are not "harbor works." *United States v. Louisiana*, 394 U.S. 11, 36-38, 89 S.Ct. 773, 787-89, 22 L.Ed.2d 44 (1969).

Further, the Conventions do not address ice coast lines, where the ice coverage may be permanent or temporary. The U.S. Government considers that the edge of a coastal ice shelf does not support a legitimate baseline. Navigation in polar regions is discussed in paragraph 2.4.5 (p. 2-24).

1.4 NATIONAL WATERS²⁷

For operational purposes, the world's oceans are divided into two parts. The first includes internal waters, territorial seas, and archipelagic waters. These *national waters* are subject to the territorial sovereignty of coastal nations, with certain navigational rights reserved to the international community. The second part includes contiguous zones, waters of the exclusive economic zone,²⁸ and the high seas. These are *international waters* in which all nations enjoy the high seas freedoms of navigation and overflight. International waters are discussed further in paragraph 1.5.

1.4.1 Internal Waters. Internal waters are *landward* of the baseline from which the territorial sea is measured.²⁹ Lakes, rivers,³⁰ some bays, harbors, some canals, and lagoons are examples of internal waters. From the standpoint of international law, internal waters have the same legal character as the land itself. There is no right of innocent passage in internal waters, and, unless in distress (see paragraph 2.3.1), ships and aircraft may not enter or overfly internal waters without the permission of the coastal nation. Where the establishment of a straight baseline has the effect of enclosing as internal waters areas which had previously not been considered as such, a right of innocent passage exists in those waters.³¹

1.4.2 Territorial Seas. The territorial sea is a belt of ocean which is measured seaward from the baseline of the coastal nation and subject to its sovereignty.³² The U.S. claims a

²⁷ Although "national waters" are not words of art recognized in international law as having a specialized meaning, their use in the text to distinguish such waters from "international waters" is considered a useful aid to understanding the contrasting operational rights and duties in and over the waters covered by these two terms.

²⁸ The high seas rights of navigation in and over the waters of the exclusive economic zone are examined in paragraph 2.4.2 (p. 2-20).

²⁹ Territorial Sea Convention, art. 5(1); 1982 LOS Convention, arts. 2(1) & 8(1). Nordquist, Vol. II at 104-8.

³⁰ It should be noted that rivers that flow between or traverse two or more nations are generally regarded as international rivers (e.g., St. Lawrence, Rhine, Elbe, Meuse, Oder, Tigrus, Euphrates). 3 Whiteman 872-1075; Berber, *Rivers in International Law* (1959); Vitanyi, *The International Regime of River Navigation* (1979).

³¹ Territorial Sea Convention, art. 5(2); 1982 LOS Convention, art. 8(2).

³² Territorial Sea Convention, arts. 1-2; 1982 LOS Convention, art. 2. Nordquist, Vol. II at 49-86.

12-nautical mile territorial sea³³ and recognizes territorial sea claims of other nations up to a maximum breadth of 12 nautical miles.³⁴

1.4.2.1 Islands, Rocks, and Low-Tide Elevations. Each island has its own territorial sea and, like the mainland, has a baseline from which it is calculated. An island is defined as a naturally formed area of land, surrounded by water, which is above water at high tide.³⁵ Rocks are islands which cannot sustain human habitation or economic life of their own. Provided they remain above water at high tide, they too possess a territorial sea determined in accordance with the principles discussed in the paragraphs on baselines.³⁶ A low-tide

³³ By Presidential Proclamation 5928, 27 December 1988, the United States extended its territorial sea, for international purposes, from 3 to 12 nautical miles. 54 Fed. Reg. 777, 9 Jan. 1989; 24 Weekly Comp. Pres. Doc. 1661, 2 Jan. 1989; 83 Am. J. Int'l L. 349; 43 U.S.C.A. sec. 1331 note; Annex A1-6 (p. 1-64). See also Schachte, The History of the Territorial Sea From a National Security Perspective, 1 Terr. Sea J. 143 (1990). The 3-nautical mile territorial sea had been established by Secretary of State Jefferson in his letters of 8 Nov. 1793 to the French and British Ministers, 6 The Writings of Thomas Jefferson 440-42 (Ford ed. 1895) ("reserving . . . the ultimate extent of this for future deliberation the President gives instructions to the officers acting under his authority to . . . [be] restrained for the present to the distance of one sea-league, or three geographical miles from the sea-shore"); Act of 5 June 1794, for the punishment of certain crimes against the United States, sec. 6, 1 Stat. 384 (1850) (granting jurisdiction to the Federal District Courts in certain cases "within a marine league of the coasts or shores" of the United States); Dep't of State Public Notice 358, 37 Fed. Reg. 11,906, 15 June 1972. See Swartraber, generally.

By its terms, Proclamation 5928 does not alter existing State or Federal law. As a result, the 9 nautical mile natural resources boundary off Texas, the Gulf coast of Florida, and Puerto Rico, and the 3 nautical mile line elsewhere, remain the inner boundary of Federal fisheries jurisdiction and the limit of the states' jurisdiction under the Submerged Lands Act, 43 U.S.C. sec. 1301 *et seq.* The Puerto Rico natural resources boundary is the limit of that commonwealth's jurisdiction under 48 U.S.C. sec. 749. See Arruda, The Extension of the United States Territorial Sea: Reasons and Effects, 4 Conn. J. Int'l L. 698 (1989); Kmiec, Legal Issues Raised by the Proposed Presidential Proclamation to Extend the Territorial Sea, 1 Terr. Sea J. 1 (1990); Office of NOAA General Counsel, Effect of the Territorial Sea Proclamation on the Coastal Zone Management Act, *id.* 169; Archer and Bondareff, The Role of Congress in Establishing U.S. Sovereignty Over the Expanded Territorial Sea, *id.* 117.

³⁴ See paragraph 2.6 (p. 2-32) regarding the U.S. Freedom of Navigation and Overflight Program.

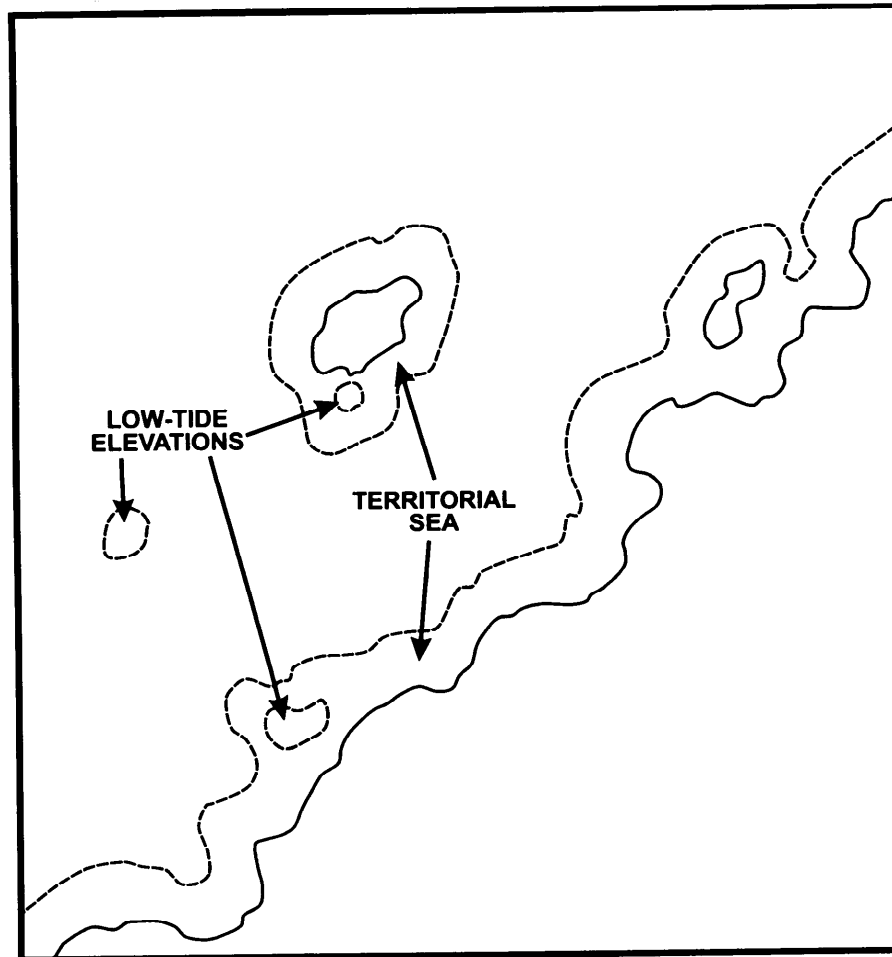
The history of claims concerning the breadth of the territorial sea reflects the lack of any international agreement prior to the 1982 LOS Convention, either at the Hague Codification Conference of 1930 or UNCLOS I and II, on the width of that maritime zone. Today, most nations claim no more than a 12 nautical mile territorial sea. This practice is recognized in the 1982 LOS Convention, art. 3, which provides that "every [nation] has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from the baseline." Table A1-5 (p. 1-81) lists the territorial sea claims including those few coastal nations that presently claim territorial sea breadths greater than 12 nautical miles in violation of art. 3 of the 1982 LOS Convention. Table A1-6 (p. 1-84) shows the expansion of territorial sea claims since 1945.

³⁵ Territorial Sea Convention, art. 10; 1982 LOS Convention, art. 121(1). The *travaux préparatoires* of art. 121 may be found in U.N. Office for Oceans Affairs and the Law of the Sea, The Law of the Sea: Regime of Islands (1988). See also Nordquist, Vol. III, at 319-39.

³⁶ Rocks, however, have no exclusive economic zone or continental shelf. Territorial Sea Convention, art. 10; 1982 LOS Convention, art. 121(3); see also paragraph 1.3 (p. 1-3) and Kwiatkowska & Soons, Entitlement to Maritime Areas of Rocks Which Cannot Sustain Human Habitation or Economic Life of Their Own, 21 Neth. Yb. Int'l L. 139 (1990).

elevation (above water at low tide but submerged at high tide³⁷) situated wholly or partly *within* the territorial sea may be used for territorial sea purposes as though it were an island. Where a low-tide elevation is located entirely *beyond* the territorial sea, it has no territorial sea of its own.³⁸ See Figure 1-5.

Figure 1-5. Territorial Sea of Islands and Low-Tide Elevations



³⁷ See paragraph 1.3.2.2 (p. 1-6).

³⁸ Territorial Sea Convention, art. 11; 1982 LOS Convention, art. 13. "Low-tide" is not defined in the Conventions. Various measures of low tide exist, including mean low water and mean lower low water. See paragraph 1.3.1, note 12 (p. 1-4) regarding low-water line.

1.4.2.2 Artificial Islands and Off-Shore Installations. Artificial islands and off-shore installations have no territorial sea of their own.³⁹

1.4.2.3 Roadsteads. Roadsteads normally used for the loading, unloading, and anchoring of ships, and which would otherwise be situated wholly or partly beyond the outer limits of the territorial sea, are included *in* the territorial sea. Roadsteads must be clearly marked on charts by the coastal nation.⁴⁰

1.4.3 Archipelagic Waters. An archipelagic nation is a nation that is constituted wholly of one or more groups of islands.⁴¹ Such nations may draw straight archipelagic baselines joining the outermost points of their outermost islands, provided that the ratio of water to

³⁹ 1982 LOS Convention, arts. 11 & 60(8). These terms are defined in IHO definitions 8 & 41, Annex A1-5 (p. 44). "Offshore terminals" and "deepwater ports" are defined in U.S. law as "any fixed or floating man-made structures other than a vessel, or any group of such structures, located beyond the territorial sea . . . and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State." Deepwater Port Act of 1974, as amended, 33 U.S.C. sec. 1501 & 1502(10).

⁴⁰ Territorial Sea Convention, art. 9; 1982 LOS Convention, arts. 12 & 16. Only the roadstead itself is territorial sea; roadsteads do not generate territorial seas around themselves. *See* McDougal & Burke 423-27. Accordingly, the United States does not recognize Germany's claim to extend its territorial sea at one point in the Helgoland Bight of the North Sea to 16 nautical miles.

⁴¹ 1982 LOS Convention, art. 46. Art. 46 defines an archipelagic nation as being constituted wholly by one or more archipelagos, and provides that it may include other islands. The article also defines "archipelago" as "a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that [they] form an intrinsic geographical, economic, and political entity, or which historically have been regarded as such." A number of nations fall within the scope of this definition, including Antigua and Barbuda, The Bahamas, Cape Verde, Comoros, Fiji, Indonesia, Papua New Guinea, Philippines, Sao Tome and Principe, the Solomon Islands, Trinidad and Tobago, and Vanuatu. *See* Table A1-7 (p. 1-85).

Other nations fall outside the Convention's definition. Continental countries possessing island archipelagos which are not entitled to archipelagic status under the Convention include the United States (Hawaiian Islands and Aleutians), Canada (Canadian Arctic Islands), Greece (the Aegean archipelago), Ethiopia (Dahlak), Ecuador (the Galapagos Islands) and Portugal (the Azores Islands). These islands, although archipelagos in a geographical sense, are not archipelagos in the political-legal sense under the Convention. *See* Table A1-8 (p. 1-87) for a complete list.

The concept of archipelagos is examined in detail in Churchill & Lowe, *The Law of the Sea* 98-111 (2d rev. ed. 1988); Herman, *The Modern Concept of the Off-Lying Archipelago in International Law*, *Can. Y.B. Int'l L.* 1985 at 172; 1 O'Connell 236-258; Rodgers, *Midocean Archipelagos and International Law* (1981); Symmons, *The Maritime Zones of Islands in International Law* 68-81 (1979); Dubner, *The Law of Territorial Waters of Mid-Ocean Archipelagos and Archipelagic States* (1976); and O'Connell, *Mid-ocean Archipelagos*, 45 *Br. Y.B. Int'l L.* 1 (1971). The *travaux préparatoires* of the archipelagic articles of the LOS Convention may be found in U.N. Office for Ocean Affairs and the Law of the Sea, *Archipelagic States: Legislative History of Part IV of the United Nations Convention on the Law of the Sea* (U.N. Sales No. E.90.V.2, 1990); and in a series of articles by the principal U.S. negotiators: Stevenson & Oxman, *The Preparations for the Law of the Sea Conference*, 68 *Am. J. Int'l L.* 1, 12-13 (1974); *The Third United Nations Conference on the Law of the Sea: The 1974 Caracas Session*, 1, 21-22 (1975); *id.*, *The Third United Nations Conference on the Law of the Sea: The 1975 Geneva Session*, 69 *Am. J. Int'l L.* 763, 784-85 (1975); Oxman, *The Third United Nations Conference on the Law of the Sea: The 1977 New York Session*, 72 *Am. J. Int'l L.* 57, 63-66 (1978). *See also* Nordquist, Vol. II at 397-487.

land within the baselines is between 1 to 1 and 9 to 1.⁴² The waters enclosed within the archipelagic baselines are called *archipelagic waters*. (The archipelagic baselines are also the baselines from which the archipelagic nation measures seaward its territorial sea, contiguous zone, and exclusive economic zone.)⁴³ The U.S. recognizes the right of an archipelagic nation to establish archipelagic baselines enclosing archipelagic waters provided the baselines are drawn in conformity with the 1982 LOS Convention.

1.4.3.1 Archipelagic Sea Lanes. Archipelagic nations may designate archipelagic sea lanes through their archipelagic waters suitable for continuous and expeditious passage of ships and aircraft. All normal routes used for international navigation and overflight are to be included. If the archipelagic nation does not designate such sea lanes, the right of archipelagic sea lanes passage may nonetheless be exercised by all nations through routes normally used for international navigation and overflight.⁴⁴

1.5 INTERNATIONAL WATERS

For operational purposes, international waters include all ocean areas *not* subject to the territorial sovereignty of any nation. All waters seaward of the territorial sea are international waters in which the high seas freedoms of navigation and overflight are preserved to the international community. International waters include contiguous zones, exclusive economic zones, and high seas.

1.5.1 Contiguous Zones. A contiguous zone is an area extending seaward from the territorial sea in which the coastal nation may exercise the control necessary to prevent or

⁴² 1982 LOS Convention, art. 47. The ratio is that of the area of the water to the area of the land, including atolls, within the baselines. Art. 47 also requires that the length of such baselines not exceed 100 nautical miles (with limited exceptions up to 125 nautical miles); that the baselines do not depart to any appreciable extent from the general configuration of the archipelago; and that the system of baselines does not cut off, from the high seas or EEZ, the territorial sea of another nation. If part of the archipelagic waters lies between two parts of an immediately adjacent neighboring nation, the existing rights and all other legitimate interests which the latter nation has traditionally exercised in such waters will survive and must be respected.

The 1:1 - 9:1 water-land area ratio serves to exclude large land area island nations such as Great Britain and New Zealand where the ratio is less than 1:1, and scattered island nations such as Kiribati and Tuvalu where the ratio is greater than 9:1. See Table A1-8A (p. 1-87). Table A1-9 (p. 1-88) lists those nations with an acceptable water:land ratio.

Several nations have drawn straight baselines around non-independent archipelagos, in violation of art. 7 of the 1982 LOS Convention: Canada (Canadian Arctic Islands), Denmark (Faeroe Islands), Ecuador (Galapagos Islands), Ethiopia (Dahlak Archipelago), Norway (Svalbard) and Portugal (Azores and Madeira Islands). See Table A1-8 (p. 1-87).

⁴³ 1982 LOS Convention, art. 49. Archipelagic waters are subject, along with the airspace over such waters and the subjacent seabed and subsoil, to archipelagic national sovereignty, excepting, *inter alia*, certain historical rights preserved for existing fisheries agreements and submarine cables. *Id.* at art. 51. See paragraph 2.3.4 (p. 2-17) regarding navigation in and overflight of archipelagic waters.

⁴⁴ 1982 LOS Convention, art. 53. Air routes may be designated for the passage of aircraft. The axis of the sea lanes (and traffic separation schemes) are to be clearly indicated on charts to which due publicity shall be given.

punish infringement of its customs, fiscal, immigration, and sanitary laws and regulations that occur within its territory or territorial sea (but not for so-called security purposes - see paragraph 1.5.4).⁴⁵ The U.S. claims a contiguous zone extending 12 nautical miles from the baselines used to measure the territorial sea.⁴⁶ The U.S. will respect, however, contiguous zones extending up to 24 nautical miles from the baseline, provided the coastal nation recognizes U.S. rights in the zone consistent with the provisions of the 1982 LOS Convention.⁴⁷

1.5.2 Exclusive Economic Zones. An exclusive economic zone (EEZ) is a resource-related zone adjacent to the territorial sea. An EEZ may not extend beyond 200 nautical miles from the baseline.⁴⁸ As the name suggests, its central purpose is economic. The U.S. recognizes the sovereign rights of a coastal nation to prescribe and enforce its laws in the exclusive economic zone for the purposes of exploration, exploitation, management, and conservation of the natural resources of the waters, seabed, and subsoil of the zone, as well as for the production of energy from the water, currents, and winds.⁴⁹ The coastal nation may

⁴⁵ Territorial Sea Convention, art. 24; 1982 LOS Convention, art. 33; Restatement (Third) Foreign Relations Law of the United States, sec. 513 Comment f, sec. 511 Comment k. The term "sanitary," a literal translation from the French "*sanitaire*," refers to "health and quarantine" matters. See Lowe, *The Development of the Concept of the Contiguous Zone*, 1981 Br. Y.B. Int'l L. 109 (1982) and Oda, *The Concept of the Contiguous Zone*, 11 Int'l & Comp. L.Q. 31 (1962). See also, Nordquist, Vol. II at 266-75.

⁴⁶ Dep't of State Public Notice 358, 37 Fed. Reg. 11,906, 15 June 1972. This is now also the outer limit of the U.S. territorial sea for international purposes; for U.S. domestic law purposes the U.S. territorial sea remains at 3 nautical miles. See paragraph 1.4.2, note 33 (p. 1-15).

⁴⁷ White House Fact Sheet, Annex A1-7 (p. 1-65). A list of those nations claiming contiguous zones beyond their territorial sea appears as Table A1-10 (p. 1-89).

Contiguous zones may be proclaimed around both islands and rocks following appropriate baseline principles. 1982 LOS Convention, art. 121(2).

Low-tide elevations (which are not part of the baseline) and man-made objects do not have contiguous zones in their own right. 1982 LOS Convention, arts. 11 & 60(8). Man-made objects include oil drilling rigs, light towers, and off-shore docking and oil pumping facilities.

⁴⁸ 1982 LOS Convention, arts. 55 & 86; Sohn & Gustafson 122-23 (pointing out that some nations insist that the exclusive economic zone is a special zone of the coastal nation subject to the freedoms of navigation and overflight). Japan is of the view that "the rights and jurisdiction of the coastal states over the 200 nautical mile exclusive economic zone are yet to be established as principles of general international law." Japanese Embassy ltr to U.S. Dep't of State (OES/OLP), 15 June 1987.

The broad principles of the exclusive economic zone reflected in the LOS Convention, art. 55-75, were established as customary international law by the broad consensus achieved at UNCLOS III and the practices of nations. *Continental Shelf Tunisia/Libya Judgment*, [1982] I.C.J. Rep. 18; *Case Concerning Delimitation of the Maritime Boundary of the Gulf of Maine (Canada/United States)*, [1984] I.C.J. Rep. 246, 294; Sohn & Gustafson 122; 2 Restatement (Third), sec. 514 Comment a & Reporters' Note 1, at 56 & 62. See also, Nordquist, Vol. II at 489-821.

⁴⁹ 1982 LOS Convention, arts. 56(1)(a) & 157; White House Fact Sheet, Annex A1-7 (p. 1-65). These "sovereign rights" are functional in character and are limited to the specified activities; they do not amount to "sovereignty" which a
(continued...)

exercise jurisdiction in the zone over the establishment and use of artificial islands, installations, and structures having economic purposes; over marine scientific research (with reasonable limitations); and over some aspects of marine environmental protection (including implementation of international vessel-source pollution control standards).⁵⁰ However, in the EEZ all nations enjoy the right to exercise the traditional high seas freedoms of navigation and overflight, of the laying of submarine cables and pipelines, and of all other traditional high seas uses by ships and aircraft which are not resource related.⁵¹ The United States

⁴⁹(...continued)

nation exercises over its land territory, internal waters, archipelagic waters (subject to the right of innocent passage for foreign vessels and archipelagic sea lanes passage for foreign vessels and aircraft), and territorial sea (subject to the rights of innocent passage for foreign vessels and transit passage for foreign ships and aircraft). International law also grants to coastal States limited "jurisdiction" in the exclusive economic zone for the other purposes mentioned in the text at note 50. 2 Restatement (Third), sec. 511 Comment b at 26-27. Article 3(3) of the 1990 U.S.-Soviet Maritime Boundary Agreement provides that the exercise by either Party of sovereign rights and jurisdiction in the "special areas" does not constitute unilateral extension of coastal State EEZ jurisdiction beyond 200 nm of its coasts. Sen. Treaty Doc. 101-22, p.VII.

⁵⁰ 1982 LOS Convention, art. 56(1)(b). The United States rejects Brazil's assertion that no nation has the right to place or to operate any type of installation or structure in the exclusive economic zone or on the continental shelf without the consent of the coastal nation. 17 LOS Official Records, para. 28, at 40 and U.S. Statement in Right of Reply, 17 LOS Official Records 244, Annex A1-1 (p. 1-25).

Marine scientific research (MSR). MSR is addressed in Part XIII of the LOS Convention but is not specifically defined. The United States accepts that MSR is the general term most often used to describe those activities undertaken in the ocean and coastal waters to expand scientific knowledge of the marine environment. MSR includes oceanography, marine biology, fisheries research, scientific ocean drilling, geological/geophysical scientific surveying, as well as other activities with a scientific purpose. See paragraph 2.4.2.1 (p. 2-20). It may be noted, however, that "survey activities," "prospecting" and "exploration" are primarily dealt with in other parts of the LOS Convention, notably Parts II, III, XI and Annex III, rather than Part XIII. "This would indicate that those activities do not fall under the regime of Part XIII." U.N. Office for Oceans Affairs and the Law of the Sea, *Law of the Sea: Marine Scientific Research: A Guide to the Implementation of the Relevant Provisions of the United Nations Convention on the Law of the Sea* 1 para. 2 (U.N. Sales No. E.91.V.3 (1991)). See also, *Law of the Sea: National Legislation, Regulations and Supplementary Documents on Marine Scientific Research in Areas under National Jurisdiction*, (U.N. Sales No. E.89.V.9 (1989)). The United States does not claim jurisdiction over MSR in its EEZ but recognizes the right of other nations to do so, provided they comply with the provisions of the 1982 LOS Convention. See the President's Ocean Policy Statement, 10 March 1983, and accompanying Fact Sheet, Annexes A1-3 (p. 1-38) & A1-7 (p. 1-65), respectively.

When activities similar to those mentioned above as MSR are conducted for commercial resource purposes, most governments, including the United States, do not treat them as MSR. Additionally, activities such as hydrographic surveys (see IHO definition 40, Annex A1-5 (p. 1-44)), the purpose of which is to obtain information for the making of navigational charts, and the collection of information that, whether or not classified, is to be used for military purposes, are not considered by the United States to be MSR and, therefore, are not subject to coastal state jurisdiction. 1989 State telegram 122770; see also paragraph 2.4.2.2 (p. 2-20). In Part XII of the Convention regarding protection and preservation of the marine environment, art. 236 provides that the environmental provisions of the Convention do not apply to warships, naval auxiliaries, and other vessels and aircraft owned or operated by a nation and used, for the time being, only on government non-commercial service. The provisions of Part XIII regarding marine scientific research similarly do not apply to military activities. Oxman, *The Regime of Warships Under the United Nations Convention on the Law of the Sea*, 24 Va. J. Int'l L. 809, 844-47 (1984). See also Negroponte, *Current Developments in U.S. Oceans Policy*, Dep't St. Bull., Sep. 1986, at 86. U.S. policy is to encourage freedom of MSR. See Statement by the President, Annex A1-3 (p. 1-38).

⁵¹ 1982 LOS Convention, art. 58. The United States rejects Brazil's assertion that other nations "may not carry out military exercises or manoeuvres within the exclusive economic zone, particularly when these activities involve the use of (continued...)

established a 200-nautical mile exclusive economic zone by Presidential Proclamation on 10 March 1983.⁵²

1.5.3 High Seas. The high seas include all parts of the ocean seaward of the exclusive economic zone. When a coastal nation has not proclaimed an exclusive economic zone, the high seas begin at the seaward edge of the territorial sea.⁵³

1.5.4 Security Zones. Some coastal nations have claimed the right to establish military security zones, beyond the territorial sea, of varying breadth in which they purport to regulate the activities of warships and military aircraft of other nations by such restrictions as prior notification or authorization for entry, limits on the number of foreign ships or aircraft present at any given time, prohibitions on various operational activities, or complete exclusion.⁵⁴ International law does not recognize the right of coastal nations to establish

⁵¹(...continued)

weapons or explosives, without the prior knowledge and consent" of the coastal nation. 17 LOS Official Records, para. 28, at 40, and U.S. Statement in Right of Reply, 17 LOS Official Records 244, Annex A1-1 (p. 1-25).

⁵² Presidential Proclamation No. 5030, 48 Fed. Reg. 10,601, 16 U.S.C.A. sec. 1453n, 10 March 1983, Annex A1-8 (p. 1-68). The U.S. thereby acquired the world's largest EEZ (2,831,400 square nautical miles). Alexander, 88 (Table 5). Although the nations with the next 9 largest actual or potential EEZs are all developed nations, the EEZ was proposed by the developing nations. A useful compilation of national legislation on the EEZ appears in U.N. Office of the Special Representative of the Secretary-General for the Law of the Sea, *The Law of the Sea: National Legislation on the Exclusive Economic Zone, the Economic Zone and the Exclusive Fishery Zone* (U.N. Sales No. E.85.V.10 (1986)). Other national EEZ legislation appears in later editions of the LOS Bulletin.

Fishery and other resource-related zones adjacent to the coast and extending to a distance of 200 nautical miles from the baseline from which the territorial sea is measured are accepted in customary international law. The U.S. claims and recognizes broad and exclusive fisheries jurisdiction to a limit of 200 nautical miles. 16 U.S.C. sec. 1811-61. *See* Hay, *Global Fisheries Regulations in the First Half of the 1990s*, 11 *Int'l J. of Marine & Coastal L.* 459 (Nov. 96), for a discussion of recent international efforts to regulate fishing activities beyond the EEZ including the U.N. General Assembly Driftnet Regulations, the Food and Agriculture Organization (FAO) Compliance Agreement, the Straddling Stocks Agreement, the FAO Code of Conduct and the Biodiversity Convention. For a comprehensive analysis of the Canadian-Spanish Fisheries dispute of 1995 (the "Turbot War"), *see* Joyner & v. Gustedt, *The 1995 Turbot War: Lessons for the Law of the Sea*, 11 *Int'l J. Marine & Coastal L.* 425 (Nov. 96).

Islands capable of supporting human habitation or economic life may have an exclusive economic zone. 1982 LOS Convention, art. 121. Such an island located more than 400 nautical miles from the nearest land can generate an EEZ of about 125,000 square nautical miles. Rocks, low-tide elevations and man-made objects, such as artificial islands and off-shore installations, are not independently entitled to their own EEZs. 1982 LOS Convention, arts. 60(8) & 121(3).

⁵³ 1982 LOS Convention, art. 86. Navigation in the high seas is discussed in paragraph 2.4.3 (p. 2-21).

⁵⁴ Sixteen nations claim security zones seaward of their territorial seas. Most such claims are designed to control matters of security within a contiguous zone geographically no broader than that permitted under the 1982 LOS Convention. However, security has never been an interest recognized in the Conventions as subject to enforcement in the contiguous zone. *See* Table A1-11 (p. 1-90). North Korea, on the other hand, has claimed no contiguous zone, but claims a security zone extending 50 nautical miles beyond its claimed territorial sea off its east coast and a security zone to the limits of its EEZ off its west coast. Park, *The 50-Mile Military Boundary Zone of North Korea*, 72 *Am. J. Int'l L.* 866 (1978); Park, *East Asia and the Law of the Sea* 163-76 (1983); *N.Y. Times*, 2 Aug. 1977, at 2; MCRM. The United States protest of this (continued...)

zones that would restrict the exercise of non-resource-related high seas freedoms beyond the territorial sea. Accordingly, the U.S. does not recognize the validity of any claimed security or military zone seaward of the territorial sea which purports to restrict or regulate the high seas freedoms of navigation and overflight.⁵⁵ (See paragraph 2.3.2.3 for a discussion of temporary suspension of innocent passage in territorial seas.)

1.6 CONTINENTAL SHELVES

The juridical continental shelf of a coastal nation consists of the seabed and subsoil of the submarine areas that extend beyond its territorial sea to the outer edge of the continental margin, *or* to a distance of 200 nautical miles from the baseline used to measure the territorial sea where the continental margin does not extend to that distance. The continental shelf may not extend beyond 350 nautical miles from the baseline of the territorial sea *or* 100 nautical miles from the 2,500 meter isobath, whichever is greater.⁵⁶ Although the coastal

⁵⁴(...continued)

claim may be found in U.N., Law of the Sea Bulletin, No. 15, May 1990, at 8-9; the Japanese protest may be found in 28 Jap. Ann. Int'l L. 122-23 (1985). See also Boma, Troubled Waters off the Land of the Morning Calm: A Job for the Fleet, Nav. War Col. Rev., Spring 1989, at 33.

Greece's claim to restrict the overflight of aircraft out to 10 nautical miles while claiming only a 6 nautical mile territorial sea has been protested by the United States; Greece also does not claim a contiguous zone. Schmitt, Aegean Angst: The Greek-Turkish Dispute, Nav. War Coll. Rev., Summer 1996, at 42. Brazil claims a security zone out to 200 nautical miles as part of its 200 nautical mile territorial sea claim; Indonesia likewise, but to an area 100 nautical miles seaward of its territorial sea. MCRM *passim*; Notice to Mariners 39/86, pages III-2.31 to III-2.34.

⁵⁵ N.Y. Times, 3 Aug. 1977, at 3 (State Dep't statement regarding the North Korean zone); U.N., LOS Bulletin No. 15, at 8-9 (May 1990). The Government of Japan is of the same view. 28 Jap. Ann. Int'l L. 123 (1985) (testimony in House Foreign Affairs Comm., Sept. 16, 1977).

⁵⁶ See Figure A1-2 (p. 1-70). The geologic definition of a continental shelf differs from the juridical definition. Geologically, the continental shelf is the gently-sloping platform extending seaward from the land to a point where the downward inclination increases markedly as one proceeds down the continental slope. The depth at which the break in angle of inclination occurs varies widely from place to place. At the foot of the slope begins the continental rise, a second gently-sloping plain which gradually merges with the floor of the deep seabed. The shelf, slope, and rise, taken together, are geologically known as the continental margin. Alexander, 22-23. The outer edge of any juridical (as opposed to geophysical) continental margin extending beyond 200 nautical miles from the baseline is to be determined in accordance with *either* the depth of sediment test (set forth in art. 76(4)(a)(i) of the 1982 LOS Convention and illustrated in Figure A1-2), *or* along a line connecting points 60 nautical miles from the foot of the continental slope (art. 76(4)(a)(ii), illustrated in Figure A1-3 (p. 1-70)), *or* the 2500 meter isobath plus 100 nautical miles (art. 76(5)). The broad principles of the continental shelf regime reflected in the 1982 LOS Convention, arts. 76-81, were established as customary international law by the broad consensus achieved at UNCLOS III and the practices of nations. *Case Concerning Delimitation of the Maritime Boundary of the Gulf of Maine (Canada/United States)*, [1984] I.C.J. Rep. 246, 294; *Case Concerning the Continental Shelf (Libya/Malta)*, [1985] I.C.J. Rep. 13, 55; 2 Restatement (Third), sec. 515 Comment a & Reporters' Note 1, at 66-69; Sohn & Gustafson 158. See also, Nordquist, Vol. II at 837-90.

In the case of opposite or adjacent shelves, delimitation shall be based on equitable principles. LOS Convention, art. 83. See also, *e.g.*, North Sea Continental Shelf Cases (W. Germ. v. Denmark; W. Germ. v. Netherlands), 1969 I.C.J. Rep. 3; The United Kingdom-French Continental Shelf (U.K. v. France), 54 I.L.R. 6, 1977; Continental Shelf (Tunisia v. Libya), 1982 I.C.J. Rep. 18; Delimitation of the Maritime Boundary between Guinea and Guinea-Bissau, 25 I.L.M. 251 (1985).

(continued...)

nation exercises sovereign rights over the continental shelf for purposes of exploring and exploiting its natural resources, the legal status of the superjacent water is *not* affected. Moreover, all nations have the right to lay submarine cables and pipelines on the continental shelf.⁵⁷

⁵⁶(...continued)

The United States made its first claim to the resources of the continental shelf in the Truman Presidential Proclamation No. 2667, 28 Sep. 1945, 3 C.F.R. 67 (1943-48 Comp.); 13 Dep't St. Bull. 484-85; 4 Whiteman 752-64.

A recent compilation of national legislation on the continental shelf appears in U.N. Office for Ocean Affairs and the Law of the Sea, *The Law of the Sea: National Legislation on the Continental Shelf* (U.N. Sales No. E.89.V.5 (1989)). *See also* Roach & Smith, at 121-9.

⁵⁷ Continental Shelf Convention, arts. 1-3 & 5; 1982 LOS Convention, arts. 60(7), 76-78 & 80-81. *See* paragraph 2.4.3, note 64 (p. 2-21) for further information regarding cables and pipelines.

It should be noted that the coastal nation does not have sovereign rights *per se* to that part of its continental shelf extending beyond the territorial sea, only to the exploration and exploitation of its natural resources. U.S. Statement in Right of Reply, 8 March 1983, 17 LOS Official Records 244, Annex A1-1 (p. 1-25). Shipwrecks lying on the continental shelf are not considered to be "natural resources." *Cf.* LOS Convention, arts. 33 and 303.

Under the 1982 LOS Convention, the "Area" (*i.e.*, the seabed beyond the juridical continental shelf) and its resources are the "common heritage of mankind." No nation may claim or exercise sovereignty over any part of the deep seabed. 1982 LOS Convention, arts. 136 & 137. The Convention further provides for the sharing with undeveloped nations of financial and other economic benefits derived from deep seabed mining.

The U.S. position regarding Part XI (The Area) of the 1982 LOS Convention, as that Part was originally formulated, was that:

[T]he Convention's deep seabed mining provisions are contrary to the interests and principles of industrialized nations and would not help attain the aspirations of developing countries.

. . . .

. . . [T]he United States will continue to work with other countries to develop a regime, free of unnecessary political and economic restraints, for mining deep seabed minerals beyond national jurisdiction. Deep seabed mining remains a lawful exercise of the freedom of the high seas open to all nations. The United States will continue to allow its firms to explore for and, when the market permits, exploit these resources.

Statement by the President, 10 March 1983, Annex A1-3 (p. 1-38). *See also* the United States' 8 March 1983 statement in right of reply, 17 LOS Official Records 243, Annex A1-1 (p. 1-25). The changes desired by the United States to Part XI were set out in the President's statement of 23 January 1982 on U.S. Participation in the Third United Nations Conference on the Law of the Sea, 1 Public Papers of President Reagan, 1982, at 92. The U.S. Congress had, however, approved the legal principle, reflected in art. 136 of the LOS Convention, that the resources of the deep seabed are the common heritage of mankind. Sec. 3(b)(1) of the Deep Seabed Minerals Resources Act, Pub.L. 96-283, 94 Stat. 555, 30 U.S.C. sec. 1402(a)(1). The 1994 Agreement Relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea addressed and corrected the flawed provisions. *See* paragraph 1.1 and accompanying notes (p. 1-1).

1.7 SAFETY ZONES

Coastal nations may establish safety zones to protect artificial islands, installations, and structures located in their internal waters, archipelagic waters, territorial seas, and exclusive economic zones, and on their continental shelves. In the case of artificial islands, installations, and structures located in the exclusive economic zones or on the continental shelf beyond the territorial sea, safety zones may not extend beyond 500 meters from the outer edges of the facility in question, except as authorized by generally accepted international standards.⁵⁸

1.8 AIRSPACE

Under international law, airspace is classified as either *national* airspace (that over the land, internal waters, archipelagic waters, and territorial seas of a nation) or *international* airspace (that over contiguous zones, exclusive economic zones, the high seas, and territory not subject to the sovereignty of any nation).⁵⁹ Subject to a right of overflight of international straits (see paragraph 2.5.1.1) and archipelagic sea lanes (see paragraph 2.5.1.2), each nation has complete and exclusive sovereignty over its national airspace.⁶⁰ Except as nations may have otherwise consented through treaties or other international agreements, the aircraft of all nations are free to operate in international airspace without interference by other nations.⁶¹

1.9 OUTER SPACE

The upper limit of airspace subject to national jurisdiction has not been authoritatively defined by international law. International practice has established that airspace terminates at some point below the point at which artificial satellites can be placed in orbit without free-falling to earth. Outer space begins at that undefined point. All nations enjoy a freedom of equal access to outer space and none may appropriate it to its national airspace or exclusive use.⁶²

⁵⁸ Continental Shelf Convention, art. 5; 1982 LOS Convention, art. 60. Safety zones may not cause any interference with the use of recognized sea lanes essential to international navigation.

⁵⁹ Territorial Sea Convention, art. 2; High Seas Convention, art. 2; 1982 LOS Convention, arts. 2(2), 49(2), 58(1) & 87(1).

⁶⁰ Convention on International Civil Aviation (Chicago Convention), 7 December 1944, 61 Stat. 1180, T.I.A.S. 1591, 15 U.N.T.S. 295, 3 Bevans 944, AFP 110-20, chap. 6, arts. 1-2. The U.S. declaration of its sovereignty in national airspace is set forth in 49 U.S.C. sec. 1508(a) (1982).

⁶¹ See paragraphs 2.5.2.2 (p. 2-30) and 2.5.2.3 (p. 2-31) regarding flight information regions and air defense identification zones, respectively. See 54 Fed. Reg. 264, 4 Jan. 1989, for FAA regulations applying to the airspace over waters between 3 and 12 nautical miles from the U.S. coast, occasioned by the extension of the U.S. territorial sea to 12 nautical miles.

⁶² AFP 110-31, para. 2-1h, at 2-3. See also paragraph 1.1, note 1 (p. 1-1). Military activities in outer space are addressed in paragraph 2.9 (p. 2-38).

ANNEX A1-1

United States of America Statement in Right of Reply

[Original English]
[8 March 1983]

Rights and duties of non-parties

Some speakers discussed the legal question of the rights and duties of States which do not become party to the Convention adopted by the Conference. Some of these speakers alleged that such States must either accept the provisions of the Convention as a "package deal" or forgo all of the rights referred to in the Convention. This supposed election is without foundation or precedent in international law. It is a basic principle of law that parties may not, by agreement among themselves, impair the rights of third parties or their obligations to third parties. Neither the Conference nor the States indicating an intention to become parties to the Convention have been granted global legislative power.

The Convention includes provision, such as those related to the regime of innocent passage in the territorial sea, which codify existing rules of international law which all States enjoy and are bound by. Other provisions, such as those relating to the exclusive economic zone, elaborate a new concept which has been recognized in international law. Still others, such as those relating to deep sea-bed mining beyond the limits of national jurisdiction, are wholly new ideas which are binding only upon parties to the Convention. To blur the distinction between codification of customary international law and the creation of new law between parties to a convention undercuts the principle of the sovereign equality of States.

The United States will continue to exercise its rights and fulfill its duties in a manner consistent with international law, including those aspects of the Convention which either codify customary international law or refine and elaborate concepts which represent an accommodation of the interests of all States and form part of international law.

Deep sea-bed mining

Some speakers asserted that existing principles of international law, or the Convention, prohibit any State, including a non-party, from exploring for and exploiting the mineral resources of the deep sea-bed except in accordance with the Convention. The United States does not believe that such assertions have any merit. The deep sea-bed mining regime of the Convention adopted by the Conference is purely contractual in character. The United States and other non-parties do not incur the obligations provided for therein to which they object.

Article 137 of the Convention may not as a matter of law prohibit sea-bed mining activities by non-parties to the Convention: nor may it relieve a party from the duty to respect the exercise of high seas freedoms, including the exploration for and exploitation of deep sea-bed minerals, by non-parties. Mining of the sea-bed is a lawful use of the high seas open to all States. United States participation in the Conference and its support for certain

General Assembly resolutions concerning sea-bed mining do not constitute acquiescence by the United States in the elaboration of the concept of the common heritage of mankind contained in Part XI, nor in the concept itself as having any effect on the lawfulness of deep sea-bed mining. The United States has consistently maintained that the concept of the common heritage of mankind can only be given legal content by a universally acceptable regime for its implementation, which was not achieved by the Conference. The practice of the United States and the other States principally interested in sea-bed mining makes it clear that sea-bed mining continues to be a lawful use of the high seas within the traditional meaning of the freedom of the high seas.

The concept of the common heritage of mankind contained in the Convention adopted by the Conference is not *jus cogens*. The Convention text and the negotiating record of the Conference demonstrate that a proposal by some delegations to include a provision on *jus cogens* was rejected.

Innocent passage in the territorial sea

Some speakers spoke to the right of innocent passage in the territorial sea and asserted that a coastal State may require prior notification or authorization before warships or other governmental ships on non-commercial service may enter the territorial sea. Such assertions are contrary to the clear import of the Convention's provisions on innocent passage. Those provisions, which reflect long-standing international law, are clear in denying coastal State competence to impose such restrictions. During the eleventh session of the Conference, formal amendments which would have afforded such competence were withdrawn. The withdrawal was accompanied by a statement read from the Chair, and that statement clearly placed coastal State security interests within the context of articles 19 and 25. Neither of those articles permits the imposition of notification or authorization requirements on foreign ships exercising the right of innocent passage.

Exclusive economic zone

Some speakers described the concept of the exclusive economic zone in a manner inconsistent with the text of the relevant provisions of the Convention adopted by the Conference.

The International Court of Justice has noted that the exclusive economic zone "may be regarded as part of modern international law" (Continental Shelf Tunisia Libya Judgement (*I.C.J. Reports 1982*, p. 18), para. 100). This concept, as set forth in the Convention, recognizes the interest of the coastal State in the resources of the zone and authorizes it to assert jurisdiction over resource-related activities therein. At the same time, all States continue to enjoy in the zone traditional high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, which remain qualitatively and quantitatively the same as those freedoms when exercised seaward of the zone. Military operations, exercises and activities

have always been regarded as internationally lawful uses of the sea. The right to conduct such activities will continue to be enjoyed by all States in the exclusive economic zone. This is the import of article 58 of the Convention. Moreover, Parts XII and XIII of the Convention have no bearing on such activities.

In this zone beyond its territory and territorial sea, a coastal State may assert sovereign rights over natural resources and related jurisdiction, but may not claim or exercise sovereignty. The extent of coastal State authority is carefully defined in the Convention adopted by the Conference. For instance, the Convention, in codifying customary international law, recognizes the authority of the coastal State to control all fishing (except for the highly migratory tuna) in its exclusive economic zone, subject only to the duty to maintain the living resources through proper conservation and management measures and to promote the objective of optimum utilization. Article 64 of the Convention adopted by the Conference recognizes the traditional position of the United States that highly migratory species of tuna cannot be adequately conserved or managed by a single coastal State and that effective management can only be achieved through international cooperation. With respect to artificial islands, installations and structures, the Convention recognizes that the coastal State has the exclusive right to control the construction, operation and use of all artificial islands, of those installations and structures having economic purposes and of those installations and structures that may interfere with the coastal State's exercise of its resource rights in the zone. This right of control is limited to those categories.

Continental shelf

Some speakers made observations concerning the continental shelf. The Convention adopted by the Conference recognizes that the legal character of the continental shelf remains the natural prolongation of the land territory of the coastal State wherein the coastal State has sovereign rights for the purpose of exploring and exploiting its natural resources. In describing the outer limits of the continental shelf, the Convention applies, in a practical manner, the basic elements of natural prolongation and adjacency fundamental to the doctrine of the continental shelf under international law. This description prejudices neither the existing sovereign rights of all coastal States with respect to the natural prolongation of their land territory into and under the sea, which exists *ipso facto* and *ab initio* by virtue of their sovereignty over the land territory, nor freedom of the high seas, including the freedom to exploit the sea-bed and subsoil beyond the limits of coastal State jurisdiction.

Boundaries of the continental shelf and exclusive economic zone

Some speakers directed statements to the boundary provisions found in articles 4 and 83 of the Convention adopted by the Conference. Those provisions do no more than reflect existing law in that they require boundaries to be established by agreement in accordance with equitable principles and in that they give no precedence to any particular delimitation method.

*Archipelagic sea lanes passage and
transit passage*

A small number of speakers asserted that archipelagic sea lanes passage, or transit passage, is a "new" right reflected in the Convention adopted by the Conference. To the contrary, long-standing international practice bears out the right of all States to transit straits used for international navigation and waters which may be eligible for archipelagic status. Moreover, these rights are well established in international law. Continued exercise of these freedoms of navigation and overflight cannot be denied a State without its consent.

One speaker also asserted that archipelagic sea lanes passage may be exercised only in sea lanes designated and established by the archipelagic States. This assertion fails to account for circumstances in which all normal sea lanes and air routes have not been designated by the archipelagic State in accordance with Part IV, including articles 53 and 54. In such circumstances, archipelagic sea lanes passage may be exercised through all sea lanes and air routes normally used for international navigation. The United States regards these rights as essential components of the archipelagic regime if it is to find acceptance in international law.

*Consistency of certain claims with provisions of the
Convention adopted by the Conference*

Some speakers also called attention to specific claims of maritime jurisdiction and to the application of certain provisions of the Convention adopted by the Conference to specific geographical areas. These statements included assertions that certain claims are in conformity with the Convention, that certain claims are not in conformity with the Convention but are nevertheless consistent with international law, that certain baselines have been drawn in conformity with international law, and that transit passage is not to be enjoyed in particular straits due to the purported applicability of certain provisions of the Convention.

The lawfulness of any coastal State claim and the application of any Convention provision or rule of law to a specific geographic area or circumstance must be analyzed on a case-by-case basis. Except where the United States has specifically accepted or rejected a particular claim or the application of a rule of law to a specific area, the United States reserves its judgement. This reservation of judgement on such questions does not constitute acquiescence in any unilateral declaration or claim. In addition, the United States reserves its judgement with respect to any matter addressed by a speaker and not included in this right of reply, except where the United States has specifically indicated its agreement with the position asserted.

Source: 17 OFFICIAL RECORDS 244, U.N. Doc. A/Conf. 62/WS/37.

ANNEX A1-2

Letter of Transmittal and Letter of Submittal Relating
to the UN Convention on the Law of the Sea and the "Agreement."

LETTER OF TRANSMITTAL

The White House, *October 7, 1994.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to accession, the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the "Convention"), and, for the advice and consent of the Senate to ratification, the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the "Agreement"), and signed by the United States, subject to ratification, on July 29, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention and Agreement, as well as Resolution II of Annex I and Annex II of the Final Act of the Third United Nations Conference on the Law of the Sea.

The United States has basic and enduring national interests in the oceans and has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. Since the late 1960s, the basic U.S. strategy has been to conclude a comprehensive treaty on the law of the sea that will be respected by all countries. Each succeeding U.S. Administration has recognized this as the cornerstone of U.S. oceans policy. Following adoption of the Convention in 1982, it has been the policy of the United States to act in a manner consistent with its provisions relating to traditional uses of the oceans and to encourage other countries to do likewise.

The primary benefits of the Convention to the United States include the following:

- The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. It achieves this, *inter alia*, by stabilizing the breadth of the territorial sea at 12 nautical miles; by setting forth navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and by reaffirming the traditional freedoms of navigation and overflight in the exclusive economic zone and the high seas beyond.
- The Convention advances the interests of the United States as a coastal State. It achieves this, *inter alia*, by providing for an exclusive economic zone out to 200 nautical miles from shore and by securing our rights regarding resources and artificial islands, installations and structures for economic purposes over the full extent of the continental shelf. These provisions fully comport with U.S. oil and gas leasing practices, domestic management of coastal fishery resources, and international fisheries agreements.

- As a far-reaching environmental accord addressing vessel source pollution, pollution from seabed activities, ocean dumping, and land-based sources of marine pollution, the Convention promotes continuing improvement in the health of the world's oceans.
- In light of the essential role of marine scientific research in understanding and managing the oceans, the Convention sets forth criteria and procedures to promote access to marine areas, including coastal waters, for research activities.
- The Convention facilitates solutions to the increasingly complex problems of the uses of the ocean—solutions that respect the essential balance between our interests as both a coastal and a maritime nation.
- Through its dispute settlement provisions, the Convention provides for mechanisms to enhance compliance by Parties with the Convention's provisions.

Notwithstanding these beneficial provisions of the Convention and bipartisan support for them, the United States decided not to sign the Convention in 1982 because of flaws in the regime it would have established for managing the development of mineral resources of the seabed beyond national jurisdiction (Part XI). It has been the consistent view of successive U.S. Administrations that this deep seabed mining regime was inadequate and in need of reform if the United States was ever to become a Party to the Convention.

Such reform has now been achieved. The Agreement, signed by the United States on July 29, 1994, fundamentally changes the deep seabed mining regime of the Convention. As described in the report of the Secretary of State, the Agreement meets the objections the United States and other industrialized nations previously expressed to Part XI. It promises to provide a stable and internationally recognized framework for mining to proceed in response to future demand for minerals.

Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which covers more than 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength.

I therefore recommend that the Senate give early and favorable consideration to the Convention and to the Agreement and give its advice and consent to accession to the Convention and to ratification of the Agreement. Should the Senate give such advice and consent, I intend to exercise the options concerning dispute settlement recommended in the accompanying report of the Secretary of State.

WILLIAM J. CLINTON

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 23, 1994.

The President,
The White House.

THE PRESIDENT: I have the honor to submit to you the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the Convention), and the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994, (the Agreement), and signed by the United States on July 29, 1994, subject to ratification. I recommended that the Convention and the Agreement be transmitted to the Senate for its advice and consent to accession and ratification, respectively.

The Convention sets forth a comprehensive framework governing uses of the oceans. It was adopted by the Third United Nations Conference on the Law of the Sea (the Conference), which met between 1973 and 1982 to negotiate a comprehensive treaty relating to the law of the sea.

The Agreement, adopted by United Nations General Assembly Resolution A/RES/48/263 on July 28, 1994, contains legally binding changes to that part of the Convention dealing with the mining of the seabed beyond the limits of national jurisdiction (Part XI and related Annexes) and is to be applied and interpreted together with the Convention as a single instrument. The Agreement promotes universal adherence to the Convention by removing obstacles to acceptance of the Convention by industrialized nations, including the United States.

I also recommend that Resolution II of Annex I, governing preparatory investment in pioneer activities relating to polymetallic nodules, and Annex II, a statement of understanding concerning a specific method to be used in establishing the outer edge of the continental margin, of the Final Act of the Third United Nations Conference of the Law of the Sea be transmitted to the Senate for its information.

THE CONVENTION

The Convention provides a comprehensive framework with respect to uses of the oceans. It creates a structure for the governance and protection of all marine areas, including the airspace above and the seabed and subsoil below. After decades of dispute and negotiation, the Convention reflects consensus on the extent of jurisdiction that States may exercise off their coasts and allocates rights and duties among States.

The Convention provides for a territorial sea of a maximum breadth of 12 nautical miles and coastal State sovereign rights over fisheries and other natural resources in an Exclusive Economic Zone (EEZ) that may extend to 200 nautical miles of the coast. In so

doing the Convention brings most fisheries under the jurisdiction of coastal States. (Some 90 percent of living marine resources are harvested within 200 nautical miles of the coast.) The Convention imposes on coastal States a duty to conserve these resources, as well as obligations upon all States to cooperate in the conservation of fisheries populations on the high seas and such populations that are found both on the high seas and within the EEZ (highly migratory stocks, such as tuna, as well as "straddling stocks"). In addition, it provides for special protective measures for anadromous species, such as salmon, and for marine mammals, such as whales.

The Convention also accords the coastal State sovereign rights over the exploration and development of non-living resources, including oil and gas, found in the seabed and subsoil of the continental shelf, which is defined to extend to 200 nautical miles from the coast or, where the continental margin extends beyond that limit, to the outer edge of the geological continental margin. It lays down specific criteria and procedures for determining the outer limit of the margin.

The Convention carefully balances the interests of States in controlling activities off their own coasts with those of all States in protecting the freedom to use ocean spaces without undue interference. It specifically preserves and elaborates the rights of military and commercial navigation and overflight in areas under coastal State jurisdiction and on the high seas beyond. It guarantees passage for all ships and aircraft through, under and over straits used for international navigation and archipelagos. It also guarantees the high seas freedoms of navigation, overflight and the laying and maintenance of submarine cables and pipelines in the EEZ and on the continental shelf.

For the non-living resources of the seabed beyond the limits of national jurisdiction (i.e., beyond the EEZ or continental margin, whichever is further seaward), the Convention establishes an international regime to govern exploration and exploitation of such resources. It defines the general conditions for access to deep seabed minerals by commercial entities and provides for the establishment of an international organization, the International Seabed Authority, to grant title to mine sites and establish necessary ground rules. The system was substantially modified by the 1994 Agreement, discussed below.

The Convention sets forth a comprehensive legal framework and basic obligations for protecting the marine environment from all sources of pollution, including pollution from vessels, from dumping, from seabed activities and from land-based activities. It creates a positive and unprecedented regime for marine environmental protection that will compel parties to come together to address issues of common and pressing concern. As such, the Convention is the strongest comprehensive environmental treaty now in existence or likely to emerge for quite some time.

The essential role of marine scientific research in understanding and managing the oceans is also secured. The Convention affirms the right of all States to conduct marine scientific research and sets forth obligations to promote and cooperate in such research. It confirms the rights of coastal States to require consent for such research undertaken in marine areas under their jurisdiction. These rights are balanced by specific criteria to ensure

that coastal States exercise the consent authority in a predictable and reasonable fashion to promote maximum access for research activities.

The Convention establishes a dispute settlement system to promote compliance with its provisions and the peaceful settlement of disputes. These procedures are flexible, in providing options as to the appropriate means and fora for resolution of disputes, and comprehensive, in subjecting the bulk of the Convention's provisions to enforcement through binding mechanisms. The system also provides parties the means of excluding from binding dispute settlement certain sensitive political and defense matters.

Further analysis of provisions of the Convention's 17 Parts, comprising 320 articles and nine Annexes, is set forth in the Commentary that is enclosed as part of this Report.

THE AGREEMENT

The achievement of a widely accepted and comprehensive law of the sea convention—to which the United States can become a Party—has been a consistent objective of successive U.S. administrations for the past quarter century. However, the United States decided not to sign the Convention upon its adoption in 1982 because of objections to the regime it would have established for managing the development of seabed mineral resources beyond national jurisdiction. While the other Parts of the Convention were judged beneficial for U.S. ocean policy interest, the United States determined the deep seabed regime of Part XI to be inadequate and in need of reform before the United States could consider becoming Party to the Convention.

Similar objections to Part XI also deterred all other major industrialized nations from adhering to the Convention. However, as a result of the important international political and economic changes of the last decade—including the end of the Cold War and growing reliance on free market principles—widespread recognition emerged that the seabed mining regime of the Convention required basic change in order to make it generally acceptable. As a result, informal negotiations were launched in 1990, under the auspices of the United Nations Secretary-General, that resulted in adoption of the Agreement on July 28, 1994.

The legally binding changes set forth in the Agreement meet the objections of the United States to Part XI of the Convention. The United States and all other major industrialized nations have signed the Agreement.

The provisions of the Agreement overhaul the decision-making procedures of Part XI to accord the United States, and others with major economic interests at stake, adequate influence over future decisions on possible deep seabed mining. The Agreement guarantees a seat for the United States on the critical executive body and requires a consensus of major contributors for financial decisions.

The Agreement restructures the deep seabed mining regime along free market principles and meets the U.S. goal of guaranteed access by U.S. firms to deep seabed minerals on the basis of reasonable terms and conditions. It eliminates mandatory transfer of technology and production controls. It scales back the structure of the organization to administer the mining regime and links the activation and operation of institutions to the

actual development of concrete commercial interest in seabed mining. A future decision, which the United States and a few of its allies can block, is required before the organization's potential operating arm (the Enterprise) may be activated, and any activities on its part are subject to the same requirements that apply to private mining companies. States have no obligation to finance the Enterprise, and subsidies inconsistent with GATT are prohibited.

The Agreement provides for grandfathering the seabed mine site claims established on the basis of the exploration work already conducted by companies holding U.S. licenses on the basis of arrangements "similar to and no less favorable than" the best terms granted to previous claimants; further, it strengthens the provisions requiring consideration of the potential environmental impacts of deep seabed mining.

The Agreement provides for its provisional application from November 16, 1994, pending its entry into force. Without such a provision, the Convention would enter into force on that date with its objectionable seabed mining provisions unchanged. Provisional application may continue only for a limited period, pending entry into force. Provisional application would terminate on November 16, 1998, if the Agreement has not entered into force due to failure of a sufficient number of industrialized States to become Parties. Further, the Agreement provides flexibility in allowing States to apply it provisionally in accordance with their domestic laws and regulations.

In signing the Agreement on July 29, 1994, the United States indicated that it intends to apply the Agreement provisionally pending ratification. Provisional application by the United States will permit the advancement of U.S. seabed mining interests by U.S. participation in the International Seabed Authority from the outset to ensure that the implementation of the regime is consistent with those interests, while doing so consistent with existing laws and regulations.

Further analysis of the Agreement and its Annex, including analysis of the provisions of Part XI of the Convention as modified by the Agreement, is also set forth in the Commentary that follows.

STATUS OF THE CONVENTION AND THE AGREEMENT

One hundred and fifty-two States signed the Convention during the two years it was open for signature. As of September 8, 1994, 65 States had deposited their instruments of ratification, accession or succession to the Convention. The Convention will enter into force for these States on November 16, 1994, and thereafter for other States 30 days after deposit of their instrument of ratification or accession.

The United States joined 120 other States in voting for adoption of the Agreement on July 28, 1994; there were no negative votes and seven abstentions. As of September 8, 1994, 50 States and the European Community have signed the Agreement, of which 19 had previously ratified the Convention. Eighteen developed States have signed the Agreement, including the United States, all the members of the European Community, Japan, Canada and Australia, as well as major developing countries, such as Brazil, China and India.

RELATION TO THE 1958 GENEVA CONVENTIONS

Article 311(1) of the LOS Convention provides that the Convention will prevail, as between States Parties, over the four Geneva Conventions on the Law of the Sea of April 29, 1958, which are currently in force for the United States: the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 16-6, T.I.A.S. No. 5639, 516 U.N.T.S. 205 (entered into force September 10, 1964); the Convention on the High Seas, 13 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S. 82 (entered into force September 30, 1962); Convention on the Continental Shelf, 15 U.S.T. 471, T.I.A.S. No. 5578, 499 U.N.T.S. 311 (entered into force June 10, 1964); and the Convention on Fishing and Conservation of Living Resources of the High Seas, 17 U.S.T. 138, T.I.A.S. No. 5969, 559 U.N.T.S. 285 (entered into force March 20, 1966). Virtually all of the provisions of these Conventions are either repeated, modified, or replaced by the provisions of the LOS Convention.

DISPUTE SETTLEMENT

The Convention identifies four potential fora for binding dispute settlement:

- The International Tribunal for the Law of the Sea constituted under Annex VI;
- The International Court of Justice;
- An arbitral tribunal constituted in accordance with Annex VII; and
- A special arbitral tribunal constituted in accordance with Annex VIII for specified categories of disputes.

A State, when adhering to the Convention, or at any time thereafter, is able to choose, by written declaration, one or more of these means for the settlement of disputes under the Convention. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree. If a Party has failed to announce its choice of forum, it is deemed to have accepted arbitration in accordance with Annex VII.

I recommend that the United States choose special arbitration for all the categories of disputes to which it may be applied and Annex VII arbitration for disputes not covered by the above, and thus that the United States make the following declaration:

The Government of the United States of America declares, in accordance with paragraph 1 of Article 287, that it chooses the following means for the settlement of disputes concerning the interpretation or application of the Convention:

(A) a special arbitral tribunal constituted in accordance with Annex VIII for the settlement of disputes concerning the interpretation or application of the articles of the Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping, and

(B) an arbitral tribunal constituted in accordance with Annex VII for the settlement of disputes not covered by the declaration in (A) above.

Subject to limited exceptions, the Convention excludes from binding dispute settlement disputes relating to the sovereign rights of coastal States with respect to the living resources in their EEZs. In addition, the Convention permits a State to opt out of binding dispute settlement procedures with respect to one or more enumerated categories of disputes, namely disputes regarding maritime boundaries between neighboring States, disputes concerning military activities and certain law enforcement activities, and disputes in respect of which the United Nations Security Council is exercising the functions assigned to it by the Charter of the United Nations.

I recommend that the United States elect to exclude all three of these categories of disputes from binding dispute settlement, and thus that the United States make the following declaration:

The Government of the United States of America declares, in accordance with paragraph 1 Article 298, that it does not accept the procedures provided for in section 2 of Part XV with respect to the categories of disputes set forth in subparagraphs (a), (b) and (c) of that paragraph.

RECOMMENDATION

The interested Federal agencies and departments of the United States have unanimously concluded that our interests would be best served by the United States becoming a Party to the Convention and the Agreement.

The primary benefits of the Convention to the United States include the following:

- The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. It achieves this, *inter alia*, by stabilizing the breadth of the territorial sea at 12 nautical miles; by setting forth navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and by reaffirming the traditional freedoms of navigation and overflight in the EEZ and the high seas beyond.
- The Convention advances the interests of the United States as a coastal State. It achieves this, *inter alia*, by providing for an EEZ out to 200 nautical miles from shore and by securing our rights regarding resources and artificial islands, installations and structures for economic purposes over the full extent of the continental shelf. These provisions fully comport with U.S. oil and gas leasing practices, domestic management of coastal fishery resources, and international fisheries agreements.
- As a far-reaching environmental accord addressing vessel source pollution, pollution from seabed activities, ocean dumping and land-based sources of marine pollution, the Convention promotes continuing improvement in the health of the world's oceans.
- In light of the essential role of marine scientific research in understanding and managing the oceans, the Convention sets forth criteria and procedures to promote access to marine areas, including coastal waters, for research activities.

- The Convention facilitates solutions to the increasingly complex problems of the uses of the ocean—solutions which respect the essential balance between our interests as both a coastal and a maritime nation.

- Through its dispute settlement provisions, the Convention provides for mechanisms to enhance compliance by Parties with the Convention's provisions.

- The Agreement fundamentally changes the deep seabed mining regime of the Convention. It meets the objections the United States and other industrialized nations previously expressed to Part XI. It promises to provide a stable and internationally recognized framework for mining to proceed in response to future demand for minerals.

The United States has been a leader in the international community's effort to develop a widely accepted international framework governing uses of the seas. As a Party to the Convention, the United States will be in a position to continue its role in this evolution and ensure solutions that respect our interests.

All interested agencies and departments, therefore, join the Department of State in unanimously recommending that the Convention and Agreement be transmitted to the Senate for its advice and consent to accession and ratification respectively. They further recommend that they be transmitted before the Senate adjourns *sine die* this fall.

The Department of State, along with other concerned agencies, stands ready to work with Congress toward enactment of legislation necessary to carry out the obligations assumed under the Convention and Agreement and to permit the United States to exercise rights granted by the Convention.

Respectfully submitted,

WARREN CHRISTOPHER

ANNEX A1-3

United States Oceans Policy [*]

Statement by the President, March 10, 1983

The United States has long been a leader in developing customary and conventional law of the sea. Our objectives have consistently been to provide a legal order that will, among other things, facilitate peaceful, international uses of the oceans and provide for equitable and effective management and conservation of marine resources. The United States also recognizes that all nations have an interest in these issues.

Last July, I announced that the United States will not sign the United Nations Law of the Sea Convention that was opened for signature on December 10. We have taken this step because several major problems in the Convention's deep seabed mining provisions are contrary to the interests and principles of industrialized nations and would not help attain the aspirations of developing countries.

The United States does not stand alone in those concerns. Some important allies and friends have not signed the convention. Even some signatory states have raised concerns about these problems.

However, the Convention also contains provisions with respect to traditional uses of the oceans which generally confirm existing maritime law and practice and fairly balance the interests of all states.

Today I am announcing three decisions to promote and protect the oceans interest of the United States in a manner consistent with those fair and balanced results in the Convention and international law.

First, the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans—such as navigation and overflight. In this respect, the United States will recognize the rights of other states in the waters off their coasts, as reflected in the Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal states.

Second, the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent with the balance of interests reflected in the Convention. The United States will not, however, acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses.

Third, I am proclaiming today an Exclusive Economic Zone in which the United States will exercise sovereign rights in living and nonliving resources within 200 nautical miles of its coast. This will provide United States jurisdiction for mineral resources out to 200 nautical miles that are not on the continental shelf. Recently discovered deposits there could be an important future source of strategic minerals.

* Reproduced from the weekly Compilation of *Presidential Documents*, Volume 19, Number 10 (March 14, 1983), pp. 383-85.

Within this Zone all nations will continue to enjoy the high seas rights and freedoms that are not resource related, including the freedoms of navigation and overflight. My proclamation does not change existing United States policies concerning the continental shelf, marine mammals, and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction. The United States will continue efforts to achieve international agreements for the effective management of these species. The proclamation also reinforces this government's policy of promoting the United States fishing industry.

While international law provides for a right of jurisdiction over marine scientific research within such a zone, the proclamation does not assert this right. I have elected not to do so because of the United States interest in encouraging marine scientific research and avoiding any unnecessary burdens. The United States will nevertheless recognize the right of other coastal states to exercise jurisdiction over marine scientific research within 200 nautical miles of their coasts, if that jurisdiction is exercised reasonably in a manner consistent with international law.

The Exclusive Economic Zone established today will also enable the United States to take limited additional steps to protect the marine environment. In this connection, the United States will continue to work through the International Maritime Organization and other appropriate international organizations to develop uniform international measures for the protection of the marine environment while imposing no unreasonable burdens on commercial shipping.

The policy decisions I am announcing today will not affect the application of existing United States law concerning the high seas or existing authorities of any United States Government agency.

In addition to the above policy steps, the United States will continue to work with other countries to develop a regime, free of unnecessary political and economic restraints, for mining deep seabed minerals beyond national jurisdiction. Deep seabed mining remains a lawful exercise of the freedom of the high seas open to all nations. The United States will continue to allow its firms to explore for and, when the market permits, exploit these resources.

The administration looks forward to working with the Congress on legislation to implement these new policies.

Source: 22 International Legal Materials 464 (1983).

ANNEX A1-4
MARITIME CLAIMS OF THE UNITED STATES
(As of 1 January 1997)

TYPE	DATE	SOURCE	LIMITS	NOTES
I. TERRITORIAL SEA	1793		3nm	
	Apr 61		3nm	Became party to the 1958 Convention on the Territorial Sea and the Contiguous Zone.
	Jun 72	Public Notice No. 358, Fed. Reg. Vol. 37, No. 116	3nm	Reaffirmed U.S. claim.
	Dec 88	Presidential Proclamation No. 5928	12nm	Territorial Sea extension also applies to Commonwealth of Puerto Rico, Guam, American Samoa, U.S. Virgin Islands and the Commonwealth of the Northern Mariana Islands and other territories and possessions.
II. CONTIGUOUS ZONE	1930	Tariff Act	12nm	Customs regulations.
	Jun 72	Public Notice N. 358, Fed. Reg. Vol. 37, No. 116	12nm	Reaffirmed U.S. claim; for purposes of customs, fiscal, immigration and sanitary controls.
III. CONTINENTAL SHELF	Sep 45	Proclamation No. 2667		White House press release issued on same date described 100-fathom depth as outer limit.
	Aug 53	Outer Continental Shelf Lands Act, 43 U.S.C. 1331		Seabed and subsoil appertaining
	Apr 61			Became party to the 1958 Convention on the Continental Shelf.

Source: DoD 2005.1-M, Maritime Claims Reference Manual, pp. 2-552 to 2-554 (1997); U.S. Dep't of State, Limits in the Sea No. 36 (7th Revision).

TYPE	DATE	SOURCE	LIMITS	NOTES
IV. FISHING/ EXCLUSIVE ECONOMIC ZONE	Oct 66	Law No. 89-658	12nm	
	Mar 77	P.L. No. 94-265 (Magnuson Fishery Conservation and Management Act of 1976)	200nm	Fishing zone: claimed exclusive management authority; applied to American Samoa, Guam, Puerto Rico, U.S. Virgin Islands, and other possessions and territories.
	Jan 78		200nm	Fishery law applied to Northern Marianas.
	Mar 83	Presidential Proclamation No. 5030	200nm	EEZ: applied to Puerto Rico, Northern Marianas and overseas possessions; no claim to jurisdiction over scientific research.
	Jul 94	Exchange of Notes with Japan		Confirms with Japan that the "line of delimitation" of Japan's fishing zone is identical to the US EEZ limits north of the Northern Marianas.
	Aug 95	Federal Register Pub. Not. No. 2237		Published limits of the EEZ.

TYPE	DATE	SOURCE	LIMITS	NOTES
V. ENVIRON- MENTAL REGULATION	Oct 72	Marine Protection, Research and Sanctuaries Act, Title I & II (33 U.S.C. §§1401 et seq., as amended)		Regulated transportation of wastes for ocean dumping in waters adjacent to the U.S.
	Oct 72	Clean Water Act, (33 U.S.C. §§1321 et seq., as amended)		Regulated pollution which may affect resources under the exclusive management authority of the U.S. or which is caused by activities under the Outer Continental Shelf Lands Act.
	Feb 74	Intervention on the High Seas Act P.L. 93-248		
	Jun 78	Intervention on the High Seas Act Amendment		
	Sep 78	Outer Continental Shelf Lands Act		Liability for spills from any facility or vessel operated in conjunction with an OCS lease.

TYPE	DATE	SOURCE	LIMITS	NOTES
VI. MARITIME BOUNDARIES	Apr 72	Agreement		Maritime boundary agreement with Mexico entered into force.
	Dec 77	Agreement		Maritime boundary agreement with Cuba signed. (See U.S. Dep't of State, Limits in the Sea, No. 110).
	May 78	Agreement		Maritime boundary agreement with Mexico (Caribbean Sea and Pacific) signed.
	Nov 80	Agreement		Maritime boundary agreement with Venezuela (Puerto Rico and U.S. Virgin Islands) entered into force.
	Sep 83	Agreement		American Samoa: maritime boundary agreement with Cook Islands entered into force.
	Sep 83	Agreement		American Samoa: maritime boundary agreement with New Zealand (Tokelau) entered into force.
	Oct 84	I.C.J. Judgement		Maritime boundary with Canada (Gulf of Maine and Georges Bank) delimited.
	Jun 90	Agreement		Maritime boundary agreement with USSR (Bering Sea) signed.
	Jun 95	Agreement		Agreement with the UK (for the British Virgin Islands) entered into force. (See U.S. Dep't of State, Limits in the Sea, No. 115.)
	Jun 95	Agreement		Agreement with the UK (for Anguilla) entered into force.
VII. LAW OF THE SEA CONVENTION	Signed Part XI Agreement July 29, 1994, subject to ratification. Submitted Convention to Senate for advice and consent to accession, October 6, 1994, along with Part XI Agreement.			

ANNEX A1-5

CONSOLIDATED GLOSSARY OF TECHNICAL TERMS USED IN THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

INTRODUCTION

The 1982 United Nations Convention on the Law of the Sea includes terms of a technical nature that may not always be readily understood by those seeking general information or those called upon to assist in putting the Convention articles into effect. Such readers could vary from politicians and lawyers to hydrographers, land surveyors, cartographers and other geographers. The need to understand such terms may become of particular concern to those involved in maritime boundary delimitation. Accordingly, the Technical Aspects of the Law of the Sea Working Group of the International Hydrographic Organization has endeavored to produce this glossary to assist all readers of the Convention in understanding the hydrographic, cartographic and oceanographic terms used.

INDEX OF GLOSSARY TERMS

1	Adjacent coasts	33	Facility (port)	65	Port
2	Aid to navigation	34	Foot of the continental slope	66	Reef
3	Archipelagic baselines	35	Geodetic data	67	Rise
4	Archipelagic sea lane	36	Geodetic datum	68	River
5	Archipelagic State	37	Geographical co-ordinates	69	Roadstead
6	Archipelagic waters	38	Harbour works	70	Rock
7	Area	39	Historic bay	71	Routing system
8	Artificial island	40	Installation (off-shore)	72	Safety aids
9	Atoll	41	Hydrographic survey	73	Safety zone
10	Bank	42	Internal waters	74	Scale
11	Baseline	43	Islands	75	Sea-bed
12	Basepoint	44	Isobath	76	Sedimentary rock
13	Bay	45	Land territory	77	Semi-enclosed sea
14	Cap	46	Latitude	78	Shelf
15	Chart	47	Line of delimitation	79	Size of area
16	Closing line	48	Longitude	80	Slope
17	Coast	49	Low-tide elevation	81	Spur
18	Contiguous zone	50	Low-water line / Low-water mark	82	Straight baseline
19	Continental margin	51	Median line / Equidistance line	83	Straight line
20	Continental rise	52	Mile	84	Strait
21	Continental shelf	53	Mouth (bay)	85	Structure
22	Continental slope	54	Mouth (river)	86	Submarine cable
23	Danger to navigation	55	Nautical chart	87	Submarine pipelines
24	Deep ocean floor	56	Nautical mile	88	Submarine ridge
25	Delimitation	57	Navigational aid	89	Subsoil
26	Delta	58	Navigational chart	90	Superjacent waters
27	Due publicity	59	Oceanic plateau	91	Territorial sea
28	Enclosed sea	60	Oceanic ridge	92	Tide
29	Equidistance line	61	Opposite coasts	93	Traffic separation scheme
30	Estuary	62	Outer limit	94	Water column
31	Exclusive economic zone (EEZ)	63	Parallel of latitude		
32	Facility (navigational)	64	Platform		

Adapted from International Hydrographic Bureau Special Pub. No. 51, and UN Office for
Ocean Affairs and the Law of the Sea, Baselines, 46-62 (1989)

1 Adjacent coasts

The coasts lying either side of the land boundary between two adjoining States.

2 Aid to navigation

Visual, acoustical or radio device external to a craft designed to assist in the determination of a safe course or of a vessel's position, or to warn of dangers and obstructions.

See: Navigational aid.

3 Archipelagic baselines

See: Baseline.

4 Archipelagic sea lane

As defined in article 53.

See: Routing system; traffic separation scheme.

5 Archipelagic State

As defined in article 46.

See: Archipelagic waters; baseline; islands.

6 Archipelagic waters

The waters enclosed by archipelagic baselines

See: Articles 46, 47 and 49.

See: Archipelagic State; baseline; internal waters.

7 Area

As defined in article 1.1.(1).

See: Baseline; continental shelf; deep ocean floor; exclusive economic zone; sea-bed; subsoil.

8 Artificial island

See: Installation (off-shore).

9 Atoll

A ring-shaped reef with or without an island situated on it surrounded by the open sea, that encloses or nearly encloses a lagoon.

Annex A1-5

Where islands are situated on atolls the territorial sea baseline is the seaward low-water line of the reef as shown by the appropriate symbol on charts officially recognized by the coastal State (article 6).

For the purpose of computing the ratio of water to land when establishing archipelagic waters, atolls and the waters contained within them may be included as part of the land area (article 47.7).

See: Archipelagic waters; baseline; island; low-water line; reef.

10 Bank

An elevation of the sea floor located on a continental (or an island) shelf, over which the depth of water is relatively shallow.

A shallow area of shifting sand, gravel, mud, etc., as a sand bank, mud bank, etc., usually constituting a danger to navigation and occurring in relatively shallow waters.

See: Continental shelf.

11 Baseline

The line from which the seaward limits of a State's territorial sea and certain other maritime zones of jurisdiction are measured.

The term usually refers to the baseline from which to measure the breadth of the territorial sea; the seaward limits of the contiguous zone (article 33.2), the exclusive economic zone (article 57) and, in some cases, the continental shelf (article 76) are measured from the same baseline.

See: Internal waters.

The territorial sea baseline may be of various types depending on the geographical configuration of the locality.

The "normal baseline" is the low-water line along the coast (including the coasts of islands) as marked on large-scale charts officially recognized by the coastal State (article 5 and 121.2).

See: Low-water line.

In the case of islands situated on atolls or of islands having fringing reefs, the baseline is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State (article 6).

Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation, may be used as part of the baseline (article 13).

See: Low-tide elevation.

Straight baselines are a system of straight lines joining specified or discrete points on the low-water line, usually known as straight baseline turning points, which may be used only in localities where the coastline is

deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity (article 7.1).

See: Straight line.

Archipelagic baselines are straight lines joining the outermost points of the outermost islands and drying reefs which may be used to enclose all or part of an archipelago forming all or part of an archipelagic State (article 47).

12 Basepoint

A basepoint is any point on the baseline. In the method of straight baselines, where one straight baseline meets another baseline at a common point, one line may be said to "turn" at that point to form another baseline. Such a point may be termed a "baseline turning point" or simply "basepoint".

13 Bay

For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation (article 10.2).

This definition is purely legal and is applicable only in relation to the determination of the limits of maritime zones. It is distinct from and does not replace the geographical definitions used in other contexts.

This definition does not apply to "historic" bays (article 10.6).

See: Historic bays.

14 Cap

Feature with a rounded cap-like top. Also defined as a plateau or flat area of considerable extent, dropping off abruptly on one or more sides.

15 Chart

A nautical chart specially designed to meet the needs of marine navigation. It depicts such information as depths of water, nature of the sea-bed, configuration and nature of the coast, dangers and aids to navigation, in a standardized format; also called simply "chart".

See: Baseline; coast; danger to navigation; geodetic datum; low-water line; navigation aid; sea-bed; tide.

16 Closing line

A line that divides the internal waters and territorial seas of a coastal State or the archipelagic waters of an archipelagic State. It is most often used in the context of establishing the baseline at the entrance to rivers (article 9), bays (article 10), and harbours (article 11).

See: Archipelagic State; baseline; bay; harbour works; internal waters, low-water line.

17 Coast

The sea-shore. The narrow strip of land in immediate contact with any body of water, including the area between high- and low-water lines.

See: Baseline; low-water line.

18 Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(a) Prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) Punish infringements of the above laws and regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured (article 33)).

See: Baseline; exclusive economic zone; high seas.

19 Continental margin

As defined in article 76.3, as follows: "The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

See: Continental rise; continental shelf; continental slope, foot of the continental slope; deep ocean floor; sea-bed subsoil.

20 Continental rise

A submarine feature which is that part of the continental margin lying between the continental slope and the abyssal plain.

It is usually a gentle slope with gradients of 1/2 degree or less and a generally smooth surface consisting of sediments.

See: Continental margin; continental slope; deep ocean floor; foot of the continental slope.

21 Continental shelf

As defined in article 76.1, as follows:

"The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baseline from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance."

The limits of the continental shelf or continental margin are determined in accordance with the provisions of article 76 of the Convention. If the continental margin extends beyond a 200 nautical mile limit measured from the appropriate baselines the provisions of article 76.4 to 76.10 apply.

See: Continental margin; outer limit.

22 Continental slope

That part of the continental margin that lies between the shelf and the rise. Simply called the slope in article 76.3.

The slope may not be uniform or abrupt, and may locally take the form of terraces. The gradients are usually greater than 1.5 degrees.

See: Continental margin; continental shelf; continental rise; deep ocean floor, foot of the continental slope.

23 Danger to navigation

A hydrographic feature or environmental condition that might operate against the safety of navigation.

24 Deep ocean floor

The surface lying at the bottom of the deep ocean with its oceanic ridges, beyond the continental margin.

The continental margin does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

See: Continental margin; oceanic ridge; sea-bed; submarine ridge; subsoil.

25 Delimitation

See: Line of delimitation.

26 Delta

A tract of alluvial land enclosed and traversed by the diverging mouths of a river.

In localities where the method of straight baselines is appropriate, and where because of the presence of a delta and other natural conditions the coastline is highly unstable, appropriate basepoints may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with the Convention (article 7.2).

See: Baseline; low-water line.

27 Due publicity

Notification of a given action for general information through appropriate authorities within a reasonable amount of time in a suitable manner.

Annex A1-5

Under the provisions of the Convention, States shall give due publicity, *inter alia*, to charts or lists of geographical co-ordinates defining the baselines and some limits and boundaries (articles 16.2, 47.9, 75.2 and 84.2), to laws and regulations pertaining to innocent passage (article 21.3), and to sea lanes and traffic separation schemes established in the territorial sea (article 22.4) and archipelagic waters (article 53.10).

In addition to notification to concerned States through diplomatic channels, more immediate dissemination to mariners may be achieved by passing the information directly to national Hydrographic Offices for inclusion in their Notices to Mariners.

See: Baseline; chart; geographical co-ordinates; traffic separation scheme.

28 Enclosed sea

As defined in article 122, as follows:

"For the purposes of this Convention, 'enclosed or semi-enclosed sea' means a gulf, basin, or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States".

29 Equidistance line

See: Median line.

30 Estuary

The tidal mouth of a river, where the tide meets the current of fresh water.

See: Bay; river; delta.

31 Exclusive economic zone (EEZ)

As defined in article 55.

The zone may not be extended beyond 200 nautical miles from the territorial sea baselines (article 57).

The rights and jurisdictions of a coastal State in the EEZ are detailed in article 56. Other aspects of the EEZ are to be found in Part V of the Convention.

32 Facility (navigational)

See: Aid to navigation.

33 Facility (port)

See: Harbour works.

34 Foot of the continental slope

"In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base" (article 76.4 (b)).

It is the point where the continental slope meets the continental rise or, if there is no rise, the deep ocean floor.

To determine the maximum change of gradient requires adequate bathymetry covering the slope and a reasonable extent of the rise, from which a series of profiles may be drawn and the point of maximum change of gradient located.

The two methods laid down in article 76.4 for determining the outer limit of the continental shelf depend upon the foot of the continental slope.

See: Continental rise; continental shelf; continental slope.

35 Geodetic data

Information concerning points established by a geodetic survey, such as descriptions for recovery, co-ordinate values, height above sea-level and orientation.

See: Geodetic datum.

36 Geodetic datum

A datum defines the basis of a co-ordinate system. A local or regional geodetic datum is normally referred to an origin whose co-ordinates are defined. The datum is associated with a specific reference ellipsoid which best fits the surface (geoid) of the area of interest. A global geodetic datum is now related to the center of the earth's mass, and its associated spheroid is a best fit to the known size and shape of the whole earth.

The geodetic datum is also known as the horizontal datum or horizontal reference datum.

The position of a point common to two different surveys executed on different geodetic datums will be assigned two different sets of geographical co-ordinates. It is important, therefore, to know what geodetic datum has been used when a position is defined.

The geodetic datum must be specified when lists of geographical co-ordinates are used to define the baselines and the limits of some zones of jurisdiction (articles 16.1, 47.8, 75.1 and 84.1).

See: Baseline; geographical co-ordinates; geodetic data.

37 Geographical co-ordinates

Units of latitude and longitude which define the position of a point on the earth's surface with respect to the ellipsoid of reference.

Latitude is expressed in degrees(°), minutes(') and seconds(") or decimals of a minute, from 0° to 90° north or south of the equator. Lines or circles joining points of equal latitude are known as "parallels of latitude" (or just "parallels").

Longitude is expressed in degrees, minutes and seconds or decimals of a minute from 0° to 180° east or west of the Greenwich meridian. Lines joining points of equal longitude are known as "meridians".

Examples: 47° 20' 16" N, 20° 18' 24" E, or 47° 20.27' N, 20° 18.4' E

See: Geodetic datum.

38 Harbour works

Permanent man-made structures built along the coast which form an integral part of the harbour system such as jetties, moles, quays or other port facilities, coastal terminals, wharves, breakwaters, sea walls, etc. (article 11).

Such harbor works may be used as part of the baseline for the purposes of delimiting the territorial sea and other maritime zones.

See: Baseline; port.

39 Historic bay

See article 10.6. This term has not been defined in the Convention. Historic bays are those over which the coastal State has publicly claimed and exercised jurisdiction and this jurisdiction has been accepted by other States. Historic bays need not meet the requirements prescribed in the definition of "bay" contained in article 10.2.

40 Hydrographic survey

The science of measuring and depicting those parameters necessary to describe the precise nature and configuration of the sea-bed and coastal strip, its geographical relationship to the land-mass, and the characteristics and dynamics of the sea.

Hydrographic surveys may be necessary to determine the features that constitute baselines or basepoints and their geographical positions.

During innocent passage, transit passage, and archipelagic sea lane passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the coastal States (article 19.2 (j), 40 and 54).

See: Baseline; geographical co-ordinates.

41 Installation (off-shore)

Man-made structure in the territorial sea, exclusive economic zone or on the continental shelf usually for the exploration or exploitation of marine resources. They may also be built for other purposes such as marine scientific research, tide observations, etc.

Off-shore installations or artificial islands shall not be considered as permanent harbour works (article 11), and therefore may not be used as part of the baseline from which to measure the breadth of the territorial sea.

Where States may establish straight baselines or archipelagic baselines, low-tide elevations having lighthouses or similar installations may be used as basepoints (articles 7.4 and 47.4).

Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf (article 60.8).

Article 60 provides, *inter alia*, for due notice to be given for the construction or removal of installations, and permanent means for giving warning of their presence must be maintained. Safety zones, not to exceed 500 metres, measured from their outer edges, may be established. Any installations abandoned or disused shall be removed, taking into account generally accepted international standards.

42 Internal waters

As defined in article 8.1; the relevant straits regime applies in a strait enclosed by straight baselines (article 35 (a)).

A State exercises complete sovereignty over its internal waters with the exception that a right of innocent passage exists for foreign vessels in areas that had not been considered as internal waters prior to the establishment of a system of straight baselines (article 8.2).

See: Baseline; bay; coastline; low-water line; historic bay; installations (off-shore); river.

43 Islands

As defined in article 121.1.

Maritime zones of islands are referred to in article 121.2.

See: Atoll; baseline, contiguous zone; continental margin, exclusive economic zone; rock; tide.

44 Isobath

A line representing the horizontal contour of the sea-bed at a given depth.

See: article 76.5.

45 Land territory

A general term in the Convention that refers to both insular and continental land masses that are above water at high tide (articles 2.1 and 76.1).

See: Tide.

46 Latitude

See: Geographical co-ordinates.

47 Line of delimitation

A line drawn on a map or chart depicting the separation of any type of maritime jurisdiction.

A line of delimitation may result either from unilateral action or from bilateral agreement and, in some cases, the State(s) concerned may be required to give due publicity.

See: Due publicity.

The term "maritime boundary" may sometimes be used to describe various lines of delimitation.

See: Baseline; chart; coast; continental margin; geographical co-ordinates; exclusive economic zone; median line; opposite coasts; outer limit; territorial sea.

48 Longitude

See: Geographical co-ordinates.

49 Low-tide elevation

A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide (article 13.1).

Low-tide elevation is a legal term for what are generally described as drying banks or rocks. On nautical charts they should be distinguishable from islands.

Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the territorial sea (article 13.1).

Articles 7.4 and 47.4 refer to the use of low-tide elevations as basepoints in a system of straight baselines or archipelagic baselines.

See: Baseline; island; low-water line; chart; territorial sea; installation (off-shore).

50 Low-water line / low-water mark

The intersection of the plane of low water with the shore. The line along a coast, or beach, to which the sea recedes at low water.

It is the normal practice for the low-water line to be shown as an identifiable feature on nautical charts unless the scale is too small to distinguish it from the high-water line or where there is no tide so that the high- and low water lines are the same.

The actual water level taken as low-water for charting purposes is known as the level of chart datum (document A/CONF. 62/L7.6).

See: Baseline; chart; tide.

51 Median line/equidistance line

A line every point of which is equidistant from the nearest points on the baselines of two or more States between which it lies.

See: Adjacent coasts; baseline; opposite coasts; territorial sea.

52 Mile

See: Nautical mile.

53 Mouth (bay)

Is the entrance to the bay from the ocean.

Article 10.2 states "a bay is a well-marked indentation," and the mouth of that bay is "the mouth of the indentation". Articles 10.3, 10.4 and 10.5 refer to "natural entrance points of a bay". Thus it can be said that the mouth of a bay lies between its natural entrance points.

In other words, the mouth of a bay is its entrance.

Although some States have developed standards by which to determine natural entrance points to bays, no international standards have been established.

See: Baseline; bay; closing line; estuary; low-water line.

54 Mouth (river)

The place of discharge of a stream into the ocean.

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks (article 9). Note that the French text of the Convention is "si un fleuve se jette dans la mer sans former d'estuaire. . ." (underlining added).

No limit is placed on the length of the line to be drawn.

The fact that the river must flow "directly into the sea" suggests that the mouth should be well marked, but otherwise the comments on the mouth of a bay apply equally to the mouth of a river.

See: Baseline; closing line; estuary; low-water line; river.

55 Nautical chart

See: Chart.

56 Nautical mile

A unit of distance equal to 1,852 metres.

This value was adopted by the International Hydrographic Conference in 1929 and has subsequently been adopted by the International Bureau of Weights and Measures. The length of the nautical mile is very close to

the mean value of the length of 1' of latitude, which varies from approximately 1,843 metres at the equator to 1,861 2/3 metres at the pole.

See: Geographical co-ordinates.

57 Navigational aid

See: Aid to navigation.

58 Navigation chart

See: Aid to navigation.

59 Oceanic plateau

A comparatively flat-topped elevation of the sea-bed which rises steeply from the ocean floor on all sides and is of considerable extent across the summit.

For the purpose of computing the ratio of water to land enclosed within archipelagic baselines, land areas may, *inter alia*, include waters lying within that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on its perimeter (article 47.7).

See: Archipelagic State; baseline.

60 Oceanic ridge

A long elevation of the ocean floor with either irregular or smooth topography and steep sides.

Such ridges are excluded from the continental margin (article 76.3).

See: Deep ocean floor.

61 Opposite coasts

The geographical relationship of the coasts of two States facing each other.

Maritime zones of States having opposite coasts may require boundary delimitation to avoid overlap.

62 Outer limit

The extent to which a coastal State claims or may claim a specific jurisdiction in accordance with the provisions of the Convention.

In the case of the territorial sea, the contiguous zone and the exclusive economic zone, the outer limits lie at a distance from the nearest point of the territorial sea baseline equal to the breadth of the zone of jurisdiction being measured (articles 4, 33.2 and 57).

In the case of the continental shelf, where the continental margin extends beyond 200 nautical miles from the baseline from which the territorial sea is measured, the extent of the outer limit is described in detail in article 76.

See: Baseline; contiguous zone; continental margin; continental shelf; exclusive economic zone; isobath; territorial sea.

63 Parallel of latitude

See: Geographical co-ordinates.

64 Platform

See: Installation (off-shore).

65 Port

A place provided with various installations, terminals and facilities for loading and discharging cargo or passengers.

66 Reef

A mass of rock or coral which either reaches close to the sea surface or is exposed at low tide.

Drying reef. That part of a reef which is above water at low tide but submerged at high tide.

Fringing reef. A reef attached directly to the shore or continental land mass, or located in their immediate vicinity.

In the case of islands situated on atolls or of islands having fringing reefs, the baseline . . . is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State (article 6).

See: Atoll; baseline; island; low-water line.

67 Rise

See: Continental rise.

68 River

A relatively large natural stream of water.

69 Roadstead

An area near the shore where vessels are intended to anchor in a position of safety; often situated in a shallow indentation of the coast.

"Roadsteads which are normally used for loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea" (article 12).

In most cases roadsteads are not clearly delimited by natural geographical limits, and the general location is indicated by the position of its geographical name on charts. If article 12 applies, however, the limits must be shown on charts or must be described by a list of geographical co-ordinates.

See: Line of delimitation; chart; geographical co-ordinates; territorial sea.

70 Rock

A solid mass of limited extent.

There is no definition given in the Convention. It is used in article 121.3, which states:

"Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf."

See: Island; low-tide elevation.

71 Routing system

Any system of one or more routes and/or routing measures aimed at reducing the risk of casualties; it includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas and deep-water routes.

72 Safety aids

See: Aid to navigation.

73 Safety zone

Zone established by the coastal State around artificial islands, installations and structures in which appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures are taken. Such zones shall not exceed a distance of 500 metres around them, except as authorized by generally accepted international standards or as recommended by the competent international organization (articles 60.4 and 60.5).

See: Installation (off-shore).

74 Scale

The ratio between a distance on a chart or map and a distance between the same two points measured on the surface of the Earth (or other body of the universe).

Scale may be expressed as a fraction or as a ratio. If on a chart a true distance of 50,000 metres is represented by a length of 1 metre the scale may be expressed as 1:50,000 or as 1/50,000. The larger the divisor the smaller is the scale of the chart.

See: Chart.

75 Sea-bed

The top of the surface layer of sand, rock, mud or other material lying at the bottom of the sea and immediately above the subsoil.

The sea-bed may be that of the territorial sea (article 2.2), archipelagic waters (article 49.2), the exclusive economic zone (article 56), the continental shelf (article 76), the high seas (article 112.1) or the area (articles 11 (1) and 133). It may be noted, however, that in reference to the surface layer seaward of the continental rise, article 76 uses the term "deep ocean floor" rather than "sea-bed."

See: Area; continental shelf; deep ocean floor; exclusive economic zone; subsoil.

76 Sedimentary rock

Rock formed by the consolidation of loose sediments that have accumulated in layers in water or in the atmosphere. (The term sedimentary rock is used in article 76.4.(a) (i)).

The sediments may consist of rock fragments or particles of various sizes (conglomerate, sandstone, shale), the remains or products of animals or plants (certain limestones and coal), the product of chemical action or of evaporation (salt, gypsum, etc.) or a mixture of these materials.

77 Semi-enclosed sea

See: Enclosed sea (article 122).

78 Shelf

Geologically an area adjacent to a continent or around an island and extending from the low-water line to the depth at which there is usually a marked increase of slope to greater depth.

See: Continental shelf.

79 Size of area

The general requirements are laid down in annex III, articles 8 and 17.2 (a) of the Convention. The first of these articles requires that the applicant shall indicate the co-ordinates dividing the area.

The most common system of co-ordinates are those of latitude and longitude, although rectangular co-ordinates on the Universal Transverse Mercator Grid (quoting the appropriate zone number), Marsden Squares, Polar Grid Co-ordinates, etc. are also unambiguous. The Preparatory Commission has under consideration that applications for plans of work should define the areas by reference to the global system WGS (article 2.12 of Draft Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area, document LOS/PCN/SCN.3/WP 6).

See: Geographical Co-ordinates.

80 Slope

See: Continental slope.

81 Spur

A subordinate elevation, ridge or projection outward from a larger feature.

The maximum extent of the outer limit of the continental shelf along submarine ridges is 350 nautical miles from the baselines. This limitation however "does not apply to submarine elevations that are natural components of the continental margin, such as plateaux, rises, caps, banks and spurs" (article 76.6).

See: Bank; cap; continental shelf; submarine ridge.

82 Straight baseline

See: Baseline.

83 Straight line

Mathematically the line of shortest distance between two points.

See: Baseline; continental margin; continental shelf.

84 Strait

Geographically, a narrow passage between two land masses or islands or groups of islands connecting two larger sea areas.

Only straits "used for international navigation" are classified as "international straits", and only such straits fall within the specific regime provided in part III, sections 2 and 3, of the Convention.

85 Structure

See: Installation (off-shore).

86 Submarine cable

An insulated, waterproof wire or bundle of wires or fibre optics for carrying an electric current or a message under water.

They are laid on or in the sea-bed, and the most common are telegraph or telephone cables, but they may also be carrying high voltage electric currents for national power distribution or to off-shore islands or structures.

They are usually shown on charts if they lie in area where they may be damaged by vessels anchoring or trawling.

All States are entitled to lay submarine cables on the continental shelf subject to the provisions of article 79.

Articles 113, 114 and 115 provide for the protection of submarine cables and indemnity for loss incurred in avoiding injury to them.

See: Submarine pipelines.

87 Submarine pipelines

A line of pipes for conveying water, gas, oil, etc., under water.

They are laid on or trenched into the sea-bed, and they could stand at some height above it. In areas of strong tidal streams and soft sea-bed material the sea-bed may be scoured from beneath sections of the pipe leaving them partially suspended.

They are usually shown on charts if they lie in areas where they may be damaged by vessels anchoring or trawling.

The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

Articles 113, 114 and 115 provide for the protection of submarine pipelines and indemnity for loss incurred in avoiding injury to them.

All States are entitled to lay submarine pipelines on the continental shelf subject to the provisions of article 79.

See: Submarine cables.

88 Submarine ridge

An elongated elevation of the sea floor, with either irregular or relatively smooth topography and steep sides, which constitutes a natural prolongation of land territory.

On submarine ridges the outer limits of the continental shelf shall not exceed 350 nautical miles from the territorial sea baselines, subject to a qualification in the case of submarine elevations which are natural components of the continental margin of a coastal State (article 76.6).

See: Continental shelf.

89 Subsoil

All naturally occurring matter lying beneath the sea-bed or deep ocean floor.

The subsoil includes residual deposits and minerals as well as the bedrock below.

The area and a coastal State's territorial sea, archipelagic waters, exclusive economic zone and continental shelf all include the subsoil (articles 1.1(1), 2.2, 49.2, 56.1 (a) and 76.1).

See: Area; continental shelf; exclusive economic zone; sea-bed.

90 Superjacent waters

The waters lying immediately above the sea-bed or deep ocean floor up to the surface.

The Convention only refers to the superjacent waters over the continental shelf and those superjacent to the area in articles 78 and 135 respectively.

See: Area; continental shelf; exclusive economic zone; sea-bed; water column.

91 Territorial sea

A belt of water of a defined breadth but not exceeding 12 nautical miles measured seaward from the territorial sea baseline.

The coastal State's sovereignty extends to the territorial sea, its sea-bed and subsoil, and to the air space above it. This sovereignty is exercised subject to the Convention and to other rules of international law (articles 2 and 3).

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea (article 4).

Article 12 provides that certain roadsteads wholly or partly outside the territorial sea are included in the territorial sea; no breadth limitation is expressed.

The major limitations on the coastal State's exercise of sovereignty in the territorial sea are provided by the rights of innocent passage for foreign ships and transit passage and archipelagic sea lanes passage for foreign ships and aircraft (part II, section 3, part III, section 2, and part IV of the Convention).

See: Archipelagic sea lanes; baseline; islands; low-tide elevations; nautical mile; roadsteads.

92 Tide

The periodic rise and fall of the surface of the oceans and other large bodies of water due principally to the gravitational attraction of the Moon and Sun on a rotating Earth.

Chart datum: The tidal level to which depths on a nautical chart are referred to constitutes a vertical datum called chart datum.

While there is no universally agreed chart datum level, under an International Hydrographic Conference Resolution (A 2.5) it "shall be a plane so low that the tide will seldom fall below it".

See: Chart; low-water line.

93 Traffic separation scheme

A routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

See: Routing system.

94 Water column

A vertical continuum of water from sea surface to sea-bed.

See: Sea-bed; superjacent waters.

ANNEX A1-6

Federal Register

Vol. 54, No. 5

Monday, January 9, 1989

Title 3—

Proclamation 5928 of December 27, 1988

The President

Territorial Sea of the United States of America

By the President of the United States of America

A Proclamation

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Nations Convention on the Law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in this Proclamation:

(a) extends or otherwise alters existing Federal or State law or any jurisdiction, right, legal interests, or obligations derived therefrom; or

(b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

RONALD REAGAN

ANNEX A1-7

**THE WHITE HOUSE
Office of the Press Secretary**

March 10, 1983

**EMBARGOED FOR RELEASE AT 4:00 PM EST
FACT SHEET**

UNITED STATES OCEANS POLICY

Today the president announced new guidelines for U.S. oceans policy and proclaimed an Exclusive Economic Zone (EEZ) for the United States. This follows his consideration of a senior interagency review of these matters.

The EEZ Proclamation confirms U.S. sovereign rights and control over the living and non-living natural resources of the seabed, subsoil and superjacent waters beyond the territorial sea but within 200 nautical miles of the United States coasts. This will include, in particular, new rights over all minerals (such as nodules and sulphide deposits) in the zone that are not on the continental shelf but are within 200 nautical miles. Deposits of polymetallic sulphides and cobalt/manganese crusts in these areas have only been recently discovered and are years away from being commercially recoverable. But they could be a major future source of strategic and other minerals important to the U.S. economy and security.

The EEZ applies to waters adjacent to the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (consistent with the Covenant and UN Trusteeship Agreement), and United States overseas territories and possessions. The total area encompassed by the EEZ has been estimated to exceed two million square nautical miles.

The President's statement makes clear that the proclamation does not change existing policies with respect to the outer continental shelf and fisheries within the U.S. zone.

Since President Truman proclaimed U.S. jurisdiction and control over the adjacent continental shelf in 1945, the U.S. has asserted sovereign rights for the purpose of exploration and exploitation of the resources of the continental shelf. Fundamental supplementary legislation, the Outer Continental Shelf Lands Act, was passed by Congress in 1953. The President's proclamation today incorporates existing jurisdiction over the continental shelf.

Since 1976 the United States has exercised management and conservation authority over fisheries resources (with the exception of highly migratory species of tuna) within 200 nautical miles of the coasts, under the Magnuson Fishery Conservation and Management Act.

The U.S. neither recognizes nor asserts jurisdiction over highly migratory species of tuna. Such species are best managed by international agreements with concerned countries. In addition to confirming the United States sovereign rights over mineral deposits beyond the continental shelf but within 200 nautical miles, the Proclamation bolsters U.S. authority over the living resources of the zone.

The United States has also exercised certain other types of jurisdiction beyond the territorial sea in accordance with international law. This includes, for example, jurisdiction relating to pollution control under the Clean Water Act of 1977 and other laws.

The President has decided not to assert jurisdiction over marine scientific research in the U.S. EEZ. This is consistent with the U.S. interest in promoting maximum freedom for such research. The Department of State will take steps to facilitate access by U.S. scientists to foreign EEZ's under reasonable conditions.

The concept of the EEZ is already recognized in international law and the President's Proclamation is consistent with existing international law. Over 50 countries have proclaimed some form of EEZ; some of these are consistent with international law and others are not.

The concept of an EEZ was developed further in the recently concluded Law of the Sea negotiations and is reflected in that Convention. The EEZ is a maritime area in which the coastal state may exercise certain limited powers as recognized under international law. The EEZ is not the same as the concept of the territorial sea, and is beyond the territorial jurisdiction of any coastal state.

The President's proclamation confirms that, without prejudice to the rights and jurisdiction of the United States in its EEZ, all nations will continue to enjoy non-resource related freedoms of the high seas beyond the U.S. territorial sea and within the U.S. EEZ. This means that the freedom of navigation and overflight and other internationally lawful uses of the sea will remain the same within the zone as they are beyond it.

The President has also established clear guidelines for United States oceans policy by stating that the United States is prepared to accept and act in accordance with international law as reflected in the results of the Law of the Sea Convention that relate to traditional uses of the oceans, such as navigation and overflight. The United States is willing to respect the maritime claims of others, including economic zones, that are consistent with international law as reflected in the Convention, if U.S. rights and freedoms in such areas under international law are respected by the coastal state.

The President has not changed the breadth of the United States territorial sea. It remains at 3 nautical miles. The United States will respect only those territorial sea claims of

others in excess of 3 nautical miles, to a maximum of 12 nautical miles, which accord to the U.S. its full rights under international law in the territorial sea.

Unimpeded commercial and military navigation and overflight are critical to the national interest of the United States. The United States will continue to act to ensure the retention of the necessary rights and freedoms.

By proclaiming today a U.S. EEZ and announcing other oceans policy guidelines, the President has demonstrated his commitment to the protection and promotion of U.S. maritime interests in a manner consistent with international law.

END

Source: 22 International Legal Materials 461 (1983).

ANNEX A1-8

Proclamation 5030 of March 10, 1983

Exclusive Economic Zone of the United States of America

48 F.R. 10605

By the President of the United States of America

A Proclamation

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as describe herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

RONALD REAGAN

FIGURE A1-1

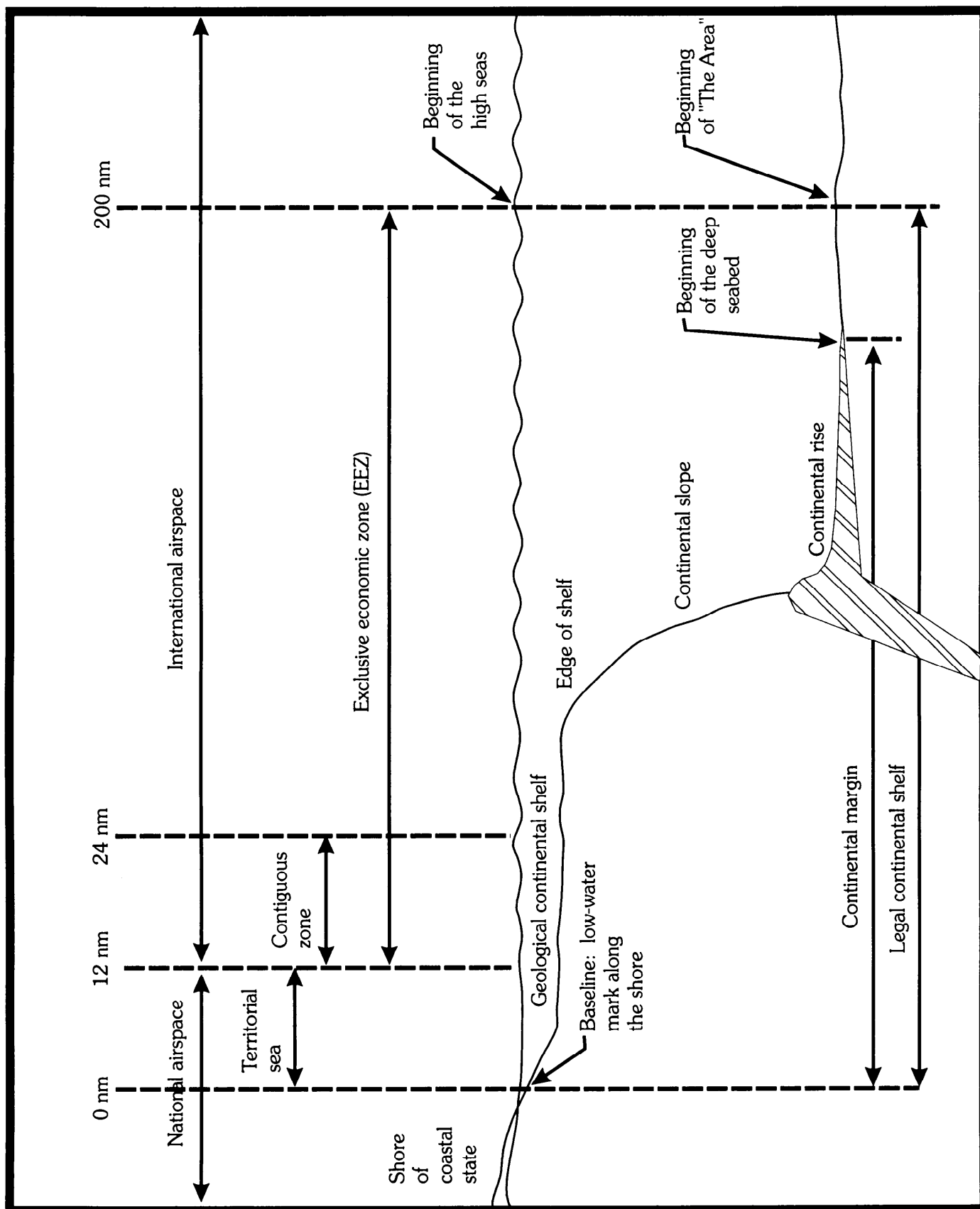


FIGURE A1-2

CONTINENTAL SHELF DELIMITATION

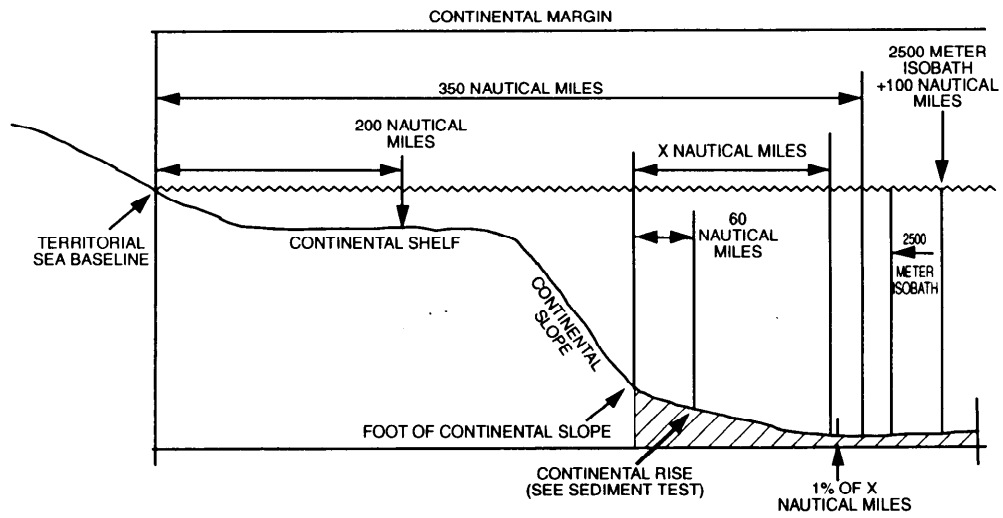
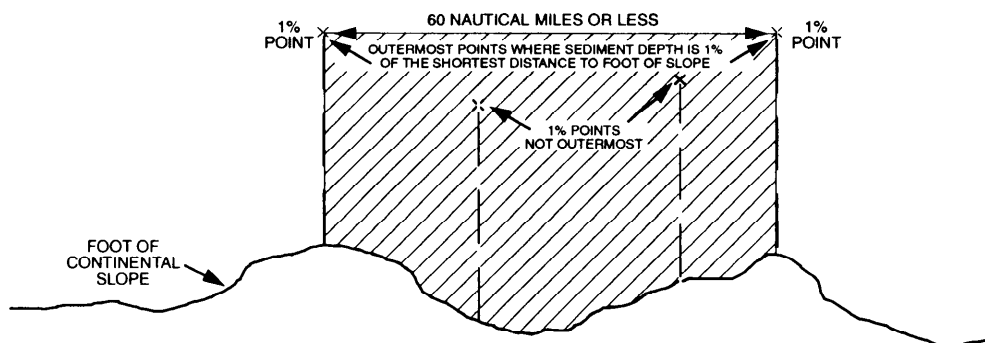


FIGURE A1-3

DEPTH OF SEDIMENT TEST



Source: Roach & Smith

TABLE A1-1
PARTIES TO THE 1982 UN CONVENTION ON THE LAW OF THE SEA

As of 1 November 1997, the following nations had deposited their instruments of ratification or accession:

<i>Nations</i>	<i>Dates of Ratification/Accession/Succession</i>
Algeria	11 June 1996
Angola	5 December 1990
Antigua and Barbuda	2 February 1989
Argentina	1 December 1995
Australia	5 October 1994
Bahamas	29 July 1983
Bahrain	30 May 1985
Barbados	12 October 1993
Belize	13 August 1983
Benin	16 October 1997
Bosnia & Herzegovina	12 January 1994
Brazil	22 December 1988
Brunei Darussalam	5 November 1996
Bulgaria	15 May 1996
Cameroon	19 November 1985
Cape Verde	10 August 1987
Chile	25 August 1997
China	7 June 1996
Comoros	21 June 1994
Congo	17 February 1989
Cook Islands	15 February 1995
Costa Rica	21 September 1992
Croatia	5 April 1995
Cuba	15 August 1984
Cyprus	12 December 1988
Czech Republic	21 June 1996
Djibouti	8 October 1991
Dominica	24 October 1991
Egypt	26 August 1983
Equatorial Guinea	21 July 1997
Fiji	10 December 1982
Finland	21 June 1996
France	11 April 1996
Gambia	22 May 1984
Georgia	21 March 1996
Germany	14 October 1994
Ghana	7 June 1983
Greece	21 July 1995
Grenada	25 April 1991
Guatemala	11 February 1977
Guinea	6 September 1985
Guinea-Bissau	25 August 1986
Guyana	16 November 1993
Haiti	31 July 1995
Honduras	5 October 1993
Iceland	21 June 1985
India	29 June 1995
Indonesia	3 February 1986

TABLE A1-1 (cont'd)

Iraq	30	July 1985
Ireland	21	June 1996
Italy	13	January 1995
Ivory Coast	26	March 1984
Jamaica	21	March 1983
Japan	30	June 1996
Jordan	27	November 1995
Kenya	2	March 1989
Korea (Rep. of)	29	January 1996
Kuwait	2	May 1986
Lebanon	5	January 1995
Macedonia	19	August 1994
Malaysia	14	October 1996
Malta	20	May 1993
Marshall Islands	9	August 1991
Mauritania	17	July 1996
Mauritius	4	November 1994
Mexico	18	March 1983
Micronesia, Federated States of	29	April 1991
Monaco	20	March 1996
Mozambique	13	March 1997
Myanmar	21	May 1996
Namibia (U.N. Council for)	18	April 1983
Nauru	23	January 1996
Netherlands	28	June 1996
New Zealand	19	July 1996
Nigeria	14	August 1986
Norway	24	June 1996
Oman	17	August 1989
Pakistan	26	February 1997
Palau	30	September 1996
Panama	1	July 1996
Philippines	8	May 1984
Romania	17	December 1996
Russia	12	March 1997
St. Kitts and Nevis	7	January 1993
Saint Lucia	27	March 1985
Saint Vincent and the Grenadines	1	October 1993
Samoa	14	August 1995
Sao Tome and Principe	3	November 1987
Saudi Arabia	24	April 1996
Senegal	25	October 1984
Seychelles	16	September 1991
Sierra Leone	14	December 1994
Singapore	17	November 1994
Slovenia	16	June 1995
Solomon Islands	23	June 1997
Somalia	24	July 1989
Spain	15	January 1997
Sri Lanka	19	July 1994
Sudan	23	January 1985
Sweden	25	June 1996

TABLE A1-1 (cont'd)

Tanzania, United Republic of	30	September 1985
Togo	16	April 1985
Tonga	2	August 1995
Trinidad and Tobago	25	April 1986
Tunisia	24	April 1985
United Kingdom	25	July 1997
Uruguay	10	December 1992
Vietnam	25	July 1994
Yemen	21	July 1987
Yugoslavia	5	May 1986
Zimbabwe	24	February 1993

Land-Locked Nations

Dates of Ratification/Accession

Austria	14	July 1995
Bolivia	28	April 1995
Botswana	2	May 1990
Mali	16	July 1985
Mongolia	9	August 1996
Paraguay	26	September 1986
Slovakia	8	May 1996
Uganda	9	November 1990
Zambia	7	March 1983

Source: U.N. Office for Ocean Affairs and the Law of the Sea (the current listing of parties to the 1982 LOS Convention can be found on the Internet at: <gopher://gopher.UN.ORG:70/00/LOS/STAT-LOS.TXT>).

TABLE A1-2
PARTIES TO THE 1958 GENEVA CONVENTIONS

Convention on the territorial sea and contiguous zone.
Done at Geneva April 29, 1958; entered into force
September 10, 1964.
15 UST 1606; TIAS 5639; 516 UNTS 205.

States which are parties:

Australia¹
Belgium
Belarus²
Bosnia-Herzegovina
Bulgaria²
Cambodia
Croatia
Czech Rep.³
Czechoslovakia^{2,4}
Denmark¹
Dominican Rep.
Fiji¹
Finland
German Dem. Rep.^{2,5}
Haiti
Hungary²
Israel¹
Italy²
Jamaica
Japan¹
Kenya
Latvia
Lesotho
Lithuania
Madagascar¹
Malawi
Malaysia
Malta
Mauritius
Mexico²
Netherlands^{1,6}
Nigeria
Portugal¹
Romania²
Sierra Leone³
Slovak Rep.²
Slovenia
Solomon Islands
South Africa
Spain³
Swaziland
Switzerland
Thailand¹
Tonga¹
Trinidad & Tobago
Uganda

Ukraine²
Union of Soviet Socialist Reps.^{2,7}
United Kingdom¹
United States¹
Venezuela²
Yugoslavia⁸

NOTES:

¹ With a statement.

² With reservation.

³ With a declaration.

⁴ Czechoslovakia was succeeded by the Czech Republic and the Slovak Republic on 31 Dec 1992.

⁵ The Federal Republic of Germany acceded the German Democratic Republic on 3 Oct. 1995.

⁶ Applicable to Netherlands Antilles and Aruba.

⁷ The Union of Soviet Socialist Republics desolved on 25 Dec. 1991.

⁸ Yugoslavia has desolved.

Convention on the high seas. Done at Geneva April 29, 1958; entered into force September 30, 1962.
13 UST 2312; TIAS 5200; 450 UNTS 82.

States which are parties:

Afghanistan
Albania^{1,2}
Australia³
Austria
Belarus^{1,2}
Belgium
Bosnia-Herzegovina
Bulgaria^{1,2}
Burkina Faso
Cambodia
Central African Rep.
Costa Rica
Croatia
Cyprus
Czech Rep.³
Czechoslovakia^{1,2,4}
Denmark³
Dominican Rep.
Fiji³
Finland
German Dem. Rep.^{1,2,5}
Germany, Fed. Rep.^{3,5}
Guatemala
Haiti
Hungary^{1,2}
Indonesia¹
Israel³
Italy

TABLE A1-2 (cont'd)

Jamaica	15 UST 471; TIAS 5578; 499 UNTS 311.
Japan ³	
Kenya	States which are parties:
Latvia	Albania
Lesotho	Australia
Madagascar ³	Belarus
Malawi	Bosnia-Herzegovina
Malaysia	Bulgaria
Mauritius	Cambodia
Mexico ¹	Canada ^{1,2}
Mongolia ²	China (Taiwan) ^{3,4}
Nepal	Colombia
Netherlands ^{3,6}	Costa Rica
Nigeria	Croatia
Poland ^{1,2}	Cyprus
Portugal ³	Czech Rep.
Romania ^{1,2}	Czechoslovakia ⁵
Senegal	Denmark
Sierra Leone	Dominican Rep.
Slovak Rep. ^{1,2}	Fiji ²
Slovenia	Finland
Solomon Islands	France ^{1,3}
South Africa	German Dem. Rep. ⁶
Spain ²	Greece ³
Swaziland	Guatemala
Switzerland	Haiti
Thailand ³	Israel
Tonga ³	Jamaica
Trinidad & Tobago	Kenya
Uganda	Latvia
Ukraine ^{1,2}	Lesotho
Union of Soviet Socialist Reps. ^{1,7}	Madagascar
United Kingdom ³	Malawi
United States ³	Malaysia
Venezuela	Malta
Yugoslavia ⁸	Mauritius
	Mexico
	Netherlands ^{2,7}
	New Zealand
	Nigeria
	Norway ²
	Poland
	Portugal
	Romania
	Sierra Leone
	Slovak Rep.
	Solomon Is.
	South Africa
	Spain ^{1,2}
	Swaziland
	Sweden
	Switzerland
	Thailand ²

NOTES:

¹ With reservation.

² With declaration.

³ With a statement.

⁴ See note on Czechoslovakia under Territorial Sea Convention.

⁵ See note on Germany under Territorial Sea Convention.

⁶ Applicable to Netherlands Antilles and Aruba.

⁷ See note on the Union of Soviet Socialist Republics under Territorial Sea Convention.

⁸ See note on Yugoslavia under Territorial Sea Convention.

Convention on the continental shelf. Done at Geneva April 29, 1958; entered into force June 10, 1964.

TABLE A1-2 (cont'd)

Tonga²
 Trinidad & Tobago
 Uganda
 Ukraine
 Union of Soviet Socialist Reps.⁸
 United Kingdom²
 United States²
 Venezuela³
 Yugoslavia^{2,3,9}

NOTES:

¹ With declaration.

² With a statement.

³ With reservation.

⁴ The United States does not recognize China (Taiwan) as a sovereign State.

⁵ See note on Czechoslovakia under Territorial Sea Convention.

⁶ See note on Federal Republic of Germany under Territorial Sea Convention.

⁷ Applicable to Netherlands Antilles and Aruba.

⁸ See note on Union of Soviet Socialist Republics under Territorial Sea Convention.

⁹ See note on Yugoslavia under Territorial Sea Convention.

Convention on fishing and conservation of living resources of the high seas. Done at Geneva April 29, 1958; entered into force March 20, 1966. 17 UST 138; TIAS 5969; 559 UNTS 285.

States which are parties:

Australia
 Belgium
 Bosnia-Herzegovina
 Burkina Faso
 Cambodia
 Colombia

Denmark¹
 Dominican Rep.
 Fiji
 Finland
 France
 Haiti
 Jamaica
 Kenya
 Lesotho
 Madagascar
 Malawi
 Malaysia
 Mauritius
 Mexico
 Netherlands²
 Nigeria
 Portugal
 Sierra Leone
 Solomon Is.
 South Africa
 Spain³
 Switzerland
 Thailand
 Tonga
 Trinidad & Tobago
 Uganda
 United Kingdom³
 United States⁴
 Venezuela
 Yugoslavia⁵

NOTES:

¹ With reservation.

² Applicable to Netherlands Antilles and Aruba.

³ With a statement.

⁴ With an understanding.

⁵ See note on Yugoslavia under Territorial Sea Convention.

Source: U.S. Dep't of State, Treaties in Force, 1 Jan. 1995.

TABLE A1-3
STATES DELIMITING STRAIGHT BASELINES ALONG ALL OR PART OF THEIR COASTS
(As of 1 November 1997)

[Absence of protest or assertion should not be inferred as acceptance
or rejection by the United States of the straight baseline claims.]

State	U.S. Protest	U.S. Assertion of Right
Albania	1989	
Algeria		
Angola		
Argentina	1967	
Australia		
Bangladesh	1978	1996
Barbados		
Brazil		
Bulgaria		
Burma	1982	1985 ^a
Cambodia		1986 ^a
Cameroon	1963	
Canada		
Labrador & Newfoundland	1967	
Nova Scotia, Vancouver & Queen Charlotte Island		
Arctic	1986 ^a	
Chile		
China	1996	1996
Colombia	1988	1988 ^a
Costa Rica	1989	
Cote D'Ivoire		
Cuba	1983 ^a	1985 ^a
Cyprus		
Denmark		
Faroe Islands	1991	1991
Greenland		
Djibouti	1989	1992 ^a
Dominica		
Dominican Republic		1987 ^a
Ecuador	1986	1997
Egypt	1991	1996
Estonia		
Finland		
France		
French Departments and Dependencies:		
Fr. Guiana		
Mayotte		
St. Pierre & Miquelon		
Fr. Southern & Antarctic Lands		
Germany		
Guinea	1964	1981
Guinea-Bissau		1989

TABLE A1-3 (cont'd)

State	U.S. Protest	U.S. Assertion of Right
Haiti	1973	1986 ^a
Iceland		
Iran	1994	1994 ^a
Ireland		
Italy	1986 ^a	
Japan		
Kenya		
Korea, South		
Lithuania		
Madagascar		
Malta	1981	
Mauritania	1989	1981 ^a
Mauritius		
Mexico	1969	
Morocco		
Mozambique		
Netherlands		
Norway		
Norwegian Dependencies:		
Jan Mayen		
Svalbard		
Oman	1991	1991 ^a
Pakistan		
Portugal	1986	
Romania		
Saudi Arabia		
Senegal	1989	
Somalia		
Soviet Union (now Russia)	1984 ^a	1982 ^a
Spain		
Sudan	1989	
Sweden		
Syria		
Tanzania		
Thailand		1995
Tunisia		
Turkey		
United Arab Emirates		
United Kingdom		
UK Dependencies:		
Turks & Caicos		
Falkland Islands		
So. Georgia Islands		
Venezuela	1956 ^a	
Vietnam	1982 ^a	1996
Yemen		
Yugoslavia ^b		

^a Multiple protests or assertions.

^b Serbia and Montenegro have asserted the formation of a joint independent state, but this entity has not been recognized as a state by the U.S.

Sources: U.N. Office for Oceans and Law of the Sea, *Baselines: National Legislation With Illustrations* (1989); U.S. Dep't of State, *National Claims to Jurisdiction, Limits in the Seas* No. 36 (rev. 6, 1990); Roach & Smith at 44-8; U.S. Dep't of State, Office of Ocean Affairs.

TABLE A1-4
CLAIMED HISTORIC BAYS

A. Bays directly claimed as historic

Hudson Bay ^a (Canada)	Bay of Penzhirisk (USSR)
Mississippi Sound ^c (USA)	Peter the Great Bay ^{a,d} (USSR)
Long Island Sound ^{b,c} (USA)	Gulf of Tonkin ^a - western portion (Vietnam)
Santo Domingo Bay ^d (Dominican Republic)	Gulf of Thailand ^a - eastern portion (Vietnam)
Bay of Escocesa ^d (Dominican Republic)	Bight of Bangkok (Thailand)
Gulf of Fonseca (El Salvador, Honduras)	Gulf of Thailand ^{a,d} (Cambodia)
Gulf of Panama ^{a,d} (Panama)	Palk Bay ¹ (India, Sri Lanka)
Rio de la Plata ^a (Argentina, Uruguay)	Gulf of Manaar ^{a,d} (India, Sri Lanka)
Gulf of Taranto ^a (Italy)	Ungwana Bay (Kenya)
Gulf of Sidra ^{a,d} (Libya)	Anxious Bay ^a (Australia)
Gulf of Riga ^a (USSR)	Rivoli Bay ^a (Australia)
White Sea (USSR)	Encounter Bay ^a (Australia)
Bay of Cheshsk (USSR)	Lacepede Bay ^a (Australia)
Bay of Bajdaratsk (USSR)	

B. Bays previously claimed as historic

Delaware Bay ^b (USA)	Bay of el Arab ^a (Egypt)
Chesapeake Bay ^b (USA)	Sea of Azov ^b (USSR)
Ocoa Bay ^b (Dominican Republic)	Shark Bay ^b (Australia)
Samana Bay ^b (Dominican Republic)	Spencer Bay ^b (Australia)
Neyba Bay ^b (Dominican Republic)	St. Vincent Gulf ^b (Australia)
Bay d'Amatique ^b (Guatemala)	

^a Claim protested by the United States.

^b Qualifies as a juridical bay.

^c Per U.S. Supreme Court decision.

^d U.S. assertion of right against claim.

Note: None of these bays have been officially recognized by the United States as historic, including those of the U.S. identified as such by the Supreme Court.

Sources: Dep't of State (L/OES) files; Atlas of the Straight Baselines (Scovazzi ed., 2d ed. 1989); Roach & Smith, at 23-4.

TABLE A1-5
TERRITORIAL SEA
(As of 1 November 1997)

Three nautical miles (4)

Denmark^{b,c,d}
Jordan^a
Singapore^a
Palau

Four nautical miles (1)

Norway^a

Six nautical miles (3)

Dominican Republic^{c,d}
Greece^{a,e}
Turkey^f

Twelve nautical miles (122)

Albania^d
Algeria^a
Antigua and Barbuda^a
Argentina^a
Australia^{a,c,d}
Bahamas^a
Bahrain^a
Bangladesh
Barbados^a
Belgium^c
Belize^{a,g}
Brazil^a
Brunei
Bulgaria^{a,c,d}
Burma^a
Cambodia^{c,d}
Canada
Cape Verde^{a,h}
Chile^a
China^a
Colombia

Comoros^{a,h}
Cook Islands^a
Costa Rica^{a,d}
Cote d'Ivoire^{a,d}
Croatia^a
Cuba^a
Cyprus^{a,d}
Djibouti^a
Dominica^a
Egypt^a
Equatorial Guinea^a
Estonia
Fiji^{a,c,d,h}
Finland^{a,b,c,d}
France^{a,i}
Gabon
Gambia, The^a
Germany^{a,c,d}
Ghana^a
Grenada^a
Guatemala^{a,d}

Guinea^a
Guinea-Bissau^a
Guyana^a
Haiti^{a,c,d}
Honduras^a
Iceland^a
India^a
Indonesia^{a,d,h}
Iran
Iraq^a
Ireland^a
Israel^{c,d}
Italy^{a,c,d}
Jamaica^{a,c,d}
Japan^{a,c,d,j}
Kenya^{a,c,d}
Kiribati
Korea, North
Korea, South^{a,k}
Kuwait^a
Latvia

TABLE A1-5 (cont'd)

Lebanon^a
 Libya
 Lithuania
 Madagascar^{c,d}
 Malaysia^{a,c,d}
 Maldives
 Malta^{a,c}
 Marshall Islands^a
 Mauritania^a
 Mauritius^{a,c,d}
 Mexico^{a,c,d}
 Micronesia, Fed. States of^a
 Monaco^a
 Morocco
 Mozambique^a
 Namibia^a
 Nauru^a
 Netherlands^{a,c,d}
 New Zealand^{a,l}
 Niue
 Oman^a

Panama^a
 Pakistan^a
 Papua New Guinea^{a,h}
 Poland^d
 Portugal^{c,d}
 Qatar
 Romania^{a,c,d}
 Russia^{a,c,d}
 Saint Kitts and Nevis^a
 Saint Lucia^a
 Saint Vincent and the
 Grenadines^a
 Samoa^a
 Sao Tome & Principe^{a,h}
 Saudi Arabia^a
 Senegal^{a,d}
 Seychelles^a
 Solomon Islands^{a,c,d,h}
 South Africa^{c,d}
 Spain^{a,c,d}
 Sri Lanka^a

Sudan^a
 Suriname
 Sweden^a
 Tanzania^a
 Thailand^{c,d}
 Tonga^{a,c,d}
 Trinidad & Tobago^{a,c,d,h}
 Tunisia^{a,c}
 Tuvalu
 Ukraine
 United Arab Emirates
 United Kingdom^{a,c,d,m}
 United States^{c,d,n}
 Vanuatu^h
 Venezuela^{c,d}
 Vietnam^a
 Yemen^a
 Yugoslavia, Former^{a,c,d}
 Zaire^a

Twenty nautical miles (1)

Angola^a

Thirty nautical miles (2)

Nigeria^{a,c,d}

Togo^a

Thirty-five nautical miles (1)

Syria

Fifty nautical miles (1)

Cameroon^a

TABLE A1-5 (cont'd)

Two hundred nautical miles (10)		
Benin	Liberia	Sierra Leone ^{a,c,d}
Congo	Nicaragua	Somalia ^a
Ecuador	Peru	Uruguay ^{a,o}
El Salvador ^o		
Rectangular claim (1)		
Philippines ^{a,h}		
Notes		
<p>^a Party to the 1982 Convention.</p> <p>^b Includes Greenland and the Faroe Islands.</p> <p>^c Party to the 1958 Territorial Sea Convention.</p> <p>^d Party to the 1958 High Seas Convention.</p> <p>^e Greece claims a 10-mile territorial air space.</p> <p>^f In the Aegean Sea. Turkey claims a 12-mile territorial sea off its coast in the Black Sea and the Mediterranean.</p> <p>^g From the mouth of the Sarstoon River to Ranguana Caye, Belize's territorial sea is 3 miles; according to Belize's Maritime Areas Act, 1992, the purpose of this limitation is "to provide a framework for the negotiation of a definitive agreement on territorial differences with the Republic of Guatemala."</p> <p>^h Maritime limits are measured from claimed "archipelagic baselines" which generally connect the outermost points of outer islands or drying reefs.</p> <p>ⁱ Includes all French overseas departments and territories.</p> <p>^j Japan's territorial sea remains 3 miles in five "international straits", i.e., Soya (LaPerouse), Tsugaru, Osumi, and the eastern and western channels of Tsushima.</p> <p>^k South Korea's territorial sea remains 3 miles in the Korea Strait.</p> <p>^l Includes Tokelau.</p> <p>^m Includes Bermuda, Cayman Islands, Falkland Islands, St. Helena, Ascension, Triston de Cunha, Gough Island, Nightengale Island, Inaccessible Island, South Georgia, South Sandwich Islands, and the Turks and Caicos Islands.</p> <p>ⁿ Includes Puerto Rico, U.S. Virgin Islands, Navassa Island, American Samoa, Guam, Johnston Atoll, Palmyra Atoll, Midway Island, Wake Island, Jarvis Island, Kingman Reef, Howland Island, Baker Island, Northern Marianas.</p> <p>^o Overflight and navigation permitted beyond 12 n.m.</p>		

Source: U.S. Department of State, Office of Ocean Affairs; Roach & Smith.

TABLE A1-6

THE EXPANSION OF TERRITORIAL SEA CLAIMS								
National Claims	1945	1958	1965	1974	1979	1983	1994	1997
3 NM	46	45	32	28	23	25	5	4
4-11 NM	12	19	24	14	7	5	5	4
12 NM	2	9	26	54	76	79	119	122
Over 12 NM	0	2	3	20	25	30	17	15
Number of Coastal Nations	60	75	85	116	131	139	146	151*

* As of 1 November 1997, information was not available on the territorial sea claims of Bosnia-Herzegovina, Eritrea, Georgia or the Federal Republic of Yugoslavia (Serbia & Montenegro).

Sources: Office of Ocean Affairs, U.S. Department of State; DOD Maritime Claims Reference Manual; Roach & Smith, at 94.

TABLE A1-7

ARCHIPELAGOS
(As of 1 November 1997)

Nation	Status of Claim to be an Archipelago	Reference
ANTIGUA AND BARBUDA	Claimed archipelagic status. Straight baselines drawn. Ratified 1982 LOS Convention.	MCRM p.2-9 (1997) UN, Baselines: Legislation pp.13-15
BAHAMAS	Claimed archipelagic status. Not drawn baselines. Ratified 1982 LOS Convention.	MCRM p.2-36 (1997)
CAPE VERDE	Claimed archipelagic status. Archipelagic baselines drawn. Ratified 1982 LOS Convention.	MCRM p.2-78 (1997) UN, Baselines: Legislation pp.99-100
COMOROS	Claimed archipelagic status. Not drawn baselines. Ratified 1982 LOS Convention.	MCRM p.2-97 (1997)
FIJI	Claimed archipelagic status. Drawn archipelagic baselines. Ratified 1982 LOS Convention.	Limits in the Seas No. 101 (1984) MCRM p.2-166 (1997)
GRENADA	Claimed archipelagic status. Not drawn baselines. Ratified 1982 LOS Convention.	MCRM p.2-205 (1997)
INDONESIA	Claimed archipelagic status. Drawn archipelagic baselines. Ratified 1982 LOS Convention.	Limits in the Seas No. 35 (1971) MCRM p.2-223 (1997)
JAMAICA	Claimed archipelagic status. Drawn archipelagic baselines. Ratified 1982 LOS Convention.	MCRM p.2-255 (1997)
KIRIBATI	Claimed archipelagic status. Not drawn baselines. Not signed 1982 LOS Convention.	MCRM p.2-273 (1997)
MARSHALL ISLANDS	Claimed archipelagic status. Not drawn baselines. Ratified 1982 LOS Convention.	MCRM p.2-306 (1997)
PAPUA NEW GUINEA	Delimited interim archipelagic waters. Ratified 1982 LOS Convention.	MCRM p.2-363 (1997) UN, Ocean Affairs & Law of the Sea

TABLE A1-7 (cont'd)

Nation	Status of Claim to be an Archipelago	Reference
PHILIPPINES	Claimed archipelagic status. Drawn archipelagic baselines. Ratified 1982 LOS Convention.	MCRM p.2-369 (1997) Limits in the Sea No. 33 (1971)
ST. VINCENT AND THE GRENADINES	Claimed archipelagic status. Not drawn archipelagic baselines. Ratified 1982 LOS Convention.	MCRM, p.2-434 (1997)
SAO TOME AND PRINCIPE	Claimed archipelagic status. Drawn archipelagic baselines. Ratified 1982 LOS Convention.	MCRM, p.2-435 (1997) UN, Baselines: Legislation pp.271-73; Limits in the Seas No. 98
SOLOMON ISLANDS	Claimed archipelagic status. Established archipelagic baselines. Ratified 1982 LOS Convention.	MCRM, p.2-453 (1997) UN, Baselines: Legislation pp.277-280 UN, Ocean Affairs & Law of the Sea
TRINIDAD AND TOBAGO	Claimed archipelagic status. Not drawn archipelagic base- lines. Ratified 1982 LOS Convention.	LOS Bulletin No. 9 MCRM, p.2-511 (1997)
TUVALU	Claimed archipelagic status. Not drawn archipelagic baselines. Not ratified 1982 LOS Convention.	UN Law of the Sea: Practice of Archipelagic States 124-130
VANUATU	Claimed archipelagic status. Established archipelagic base- lines. Not ratified 1982 LOS Convention.	MCRM, p.2-584 (1997) UN, Baselines: Legislation pp.376-380

See also Roach & Smith, at 131-40.

TABLE A1-8

A. Multi-Island States Not Physically Qualified for Archipelagic Status

Mauritius		
Samoa	St. Lucia	New Zealand
Singapore	Japan	United Kingdom

B. Dependent Territories Which, If Independent, Would Qualify for Archipelagic Status

American Samoa (USA)	Faroe Islands (Denmark) ^a	Jan Mayen Island (Norway)
Anguilla (UK)	Falkland & South Georgia Isl. ^a	Madeiras Islands (Portugal) ^a
Azores (Portugal) ^a	(UK)	New Caledonia (France)
Dahlak Archipelago (Ethiopia) ^a	Galapagos Islands (Ecuador) ^a	Svalbard (Norway) ^a
Canary Islands (Spain)	Guadeloupe (France)	Turks and Caicos Islands ^a
		(UK)

^a Straight baseline system illegally proclaimed about island group.

Sources: U.S. Department of State (L/OES); Alexander, at 91; Roach & Smith, at 131-40.

TABLE A1-9
STATES WITH ACCEPTABLE WATER/LAND RATIOS
FOR CLAIMING ARCHIPELAGIC STATUS

Antigua & Barbuda ^a	Indonesia ^a	St. Vincent and the Grenadines ^a
The Bahamas ^a	Jamaica	Sao Tome & Principe ^a
Cape Verde Islands ^a	Maldives ^b	Seychelles
Comoro Islands ^a	Malta	Solomon Islands ^a
Fiji ^a	Papua New Guinea ^a	Tonga
Grenada ^a	The Philippines ^{a,b}	Trinidad and Tobago ^a
		Vanuatu ^a

^a Archipelagic status has been declared.

^b Baseline system does not conform to LOS Convention provisions.

Sources: U.S. Department of State (L/OES); Alexander, at 91; Roach & Smith, at 131-40.

TABLE A1-10
NATIONS CLAIMING A CONTIGUOUS ZONE
BEYOND THE TERRITORIAL SEA
(As of 1 November 1997)

	CZ	TS
	<u>nm</u>	<u>nm</u>
Antigua and Barbuda	24	12
Argentina	24	12
Australia	24	12
Bahrain	24	12
Bangladesh	18	12
Brazil	24	12
Bulgaria	24	12
Burma	24	12
Cambodia	24	12
Cape Verde	24	12
Chile	24	12
China	24	12
Denmark	4	3
Djibouti	24	12
Dominica	24	12
Dominican Republic	24	6
Egypt	24	12
Finland	6	4
France	24	12
Gabon	24	12
Gambia	18	12
Ghana	24	12
Haiti	24	12
Honduras	24	12
India	24	12
Iran	24	12
Iraq	24	12
Jamaica	24	12
Korea, Republic of	24	12
Madagascar	24	12
Malta	24	12
Marshall Islands	24	12
Mauritania	24	12
Mexico	24	12
Morocco	24	12
Namibia	24	12
New Zealand	24	12
Norway	10	4
Oman	24	12
Pakistan	24	12
Qatar	24	12
Romania	24	12
St. Kitts and Nevis	24	12
Saint Lucia	24	12
St. Vincent & The Grenadines	24	12
Saudi Arabia	18	12
Senegal	24	12
Spain	24	12
Sri Lanka	24	12
Sudan	18	12
Syria	41 ¹	35
Trinidad and Tobago	24	12
Tunisia	24	12
Tuvalu	24	12
United Arab Emirates	24	12
Vanuatu	24	12
Venezuela	15	12
Vietnam	24	12
<u>Yemen</u>	<u>24</u>	<u>12</u>
Total of Nations:	59	

¹ Claim protested by the United States.

Sources: U.S. Department of State (L/OES) files; Roach & Smith, at 103-4.

TABLE A1-11
ILLEGAL SECURITY ZONES BEYOND THE TERRITORIAL SEA
(As of 1 November 1997)

[Absence of protest or assertion should not be inferred as acceptance
or rejection by the United States of the security zone claims.]

Nation	Breadth	U.S. Protest	U.S. Assertion of Right
Bangladesh	18 nm	1982	1995 ^a
Burma	24 nm	1982	1985 ^a
Cambodia	24 nm		1992
China	24 nm	1992	
Egypt	24 nm		
Haiti	24 nm	1989	1986 ^a
India	24 nm		
Iran	24 nm	1994	1995
Korea, North	50 nm	1990	1990
Nicaragua	25 nm		1993
Pakistan	24 nm	1997	1986 ^a
Saudi Arabia	18 nm		
Sri Lanka	24 nm	1986	
Sudan	18 nm	1989	1979 ^a
Syria	41 nm	1989	1981 ^a
United Arab Emirates	24 nm		
Venezuela	15 nm	1989	
Vietnam	24 nm	1982 ^a	1982 ^a
Yemen	24 nm	1982 ^a	1979 ^a

^a Multiple protests.

Source: U.S. Department of State (L/OES) files.